BEFORE THE GUJARAT ELECTRICITY REGULATORY COMMISSION

GANDHINAGAR

Petition No. 2278 of 2023.

In the Matter of:

Petition against non-compliance of the Order made in Petition No. 1729/2018 filed for implementation of "Suryashakti Kisan Yojna" (SKY) notified by the Government of Gujarat vide GR No. SLR/11/2016/2284/B1 dated 27.06.2018 and 29.09.2018 on pilot basis, for solarization of agriculture connections under the supply jurisdiction of State Distribution Licensees (i.e. DGVCL, MGVCL, PGVCL and UGVCL).

Petitioner	:	President SKY Scheme Committee of Trambovad Feeder
Represented By	:	Ld. Adv. Mr. R.N. Purohit along with Mr. G.R. Darji and Mr. Vikram Patel

V/s.

Respondent No. 1	:	Madhya Gujarat Vij Company Limited
Represented by	:	Ld. Adv. Ms. Harsha V Rao along with Mr. V. J. Trivedi
Respondent No. 2	:	Gujarat Urja Vij Nigam Limited
Represented by	:	Ld. Adv. Ms. Harsha V Rao along with Mr. K. I. Diwan
Respondent No. 3	:	Energy & Petrochemical Department, Govt. of Gujarat
Represented by	:	Nobody was present.

CORAM:

Pankaj Joshi, Chairman
Hiren Shah, Member

Date: 11/09/2026.

ORDER

1. The present Petition has been filed by the Petitioner for non-compliance of the Order made in Petition No. 1729/2018 filed for implementation of "Suryashakti Kisan Yojna" (SKY) notified by the Government of Gujarat vide GR No. SLR/11/2016/2284/B1 dated 27.06.2018 and 29.09.2018 on pilot basis, for solarization of

agriculture connections under the supply jurisdiction of State Distribution Licensees (i.e. DGVCL, MGVCL, PGVCL and UGVCL).

2. The facts, as stated in the present Petition filed by the Petitioner, are reproduced in verbatim as under:

"……

1. Preamble

b. The Government of Gujarat launched the Suryashakti Kisan Yojna (SKY) in name of benefits to the farmers by supplying the energy for electrical pump set for irrigation purpose through solar plant at his farm. The Government Resolution (GR) No SLR/11/2016/2284/B1 dated 27.06.2018 was published for SKY Scheme. The scheme was meant Pilot project covering 33 District of Gujarat for 137 feeders and covering the 12400 agricultural connections having total load of 175 MW of 4 DISCOMs of Gujrat, viz, PGVCL, DGVCL, UGVCL and MGVCL. In MGVCL, 7 Districts with 37 feeders are covered in pilot projects. Our 11 KV Trambovad feeder is one of 37 feeders in Anand District under jurisdiction of Sojitra (O&M) Sub-division under Petlad Division and Anand Circle Office of MGVCL. As per Para No. 5 of G.R.

c. According to last but one Para of GR dated 27.06.2018 (Attached Annexure H), GUVNL was the Executing agency for the SKY Scheme and was empowered to frame rules, regulations for execution of Scheme. Being an Executing agency GUVNL issued Circular No. GUVNL/Tech/Solar cell/SKY/1748 Dated 24/7/2018 in Gujarati language. For easy execution of Scheme, the "Feeder Snachalan Samiti" (ફીડર સંચાલન સમિતિ) was to be formed and president of samiti was empowered to make correspondence with respondent -

MGVCL for execution of Scheme, accordingly the Trambovad SKY Feeder Committee was registered with MGVCL..

d. *The Para 2 of the Circular dated 24.07.2018 is related to formation of SKY feeder Scheme Committee. As stated above, the Trambovad SKY Feeder Committee was registered with Respondent' Division Office Petlad of MGVCL.*

e. *During physical execution of Scheme, all supports has been extended to Respondent MGVCL and works execution agency, but on completion of 3 and half year of initial agreement period, all consumers joined the schemes faces No. of difficulties with respect to assurance as published, given and explained in meetings with farmers by Respondent MGVCL' Officers. The exaggeration in assurance and benefits promised and not fulfilled and there are failures on part of MGVCL and works execution agency in rendering the services, consumers feel that they are cheated and benefits goes to MGVCL and agency at risk and cost of consumers. Hence, the present Petition is filed with intention to issue necessary directions for actions in time bound manner so as to achieve fruitful results of the Scheme launched with noble motive of the both Government as mentioned in presentation and GR.*

2. FIXED CHARGES

a. *The daily order is made in Petition No, 1729/2018 dated 14/9/2018, filed for implementation of 'Sarashakti Kisan Yojna' (SKY) notified by Government of Gujarat vide GR No. SLR/11/2016/2284/B1 dated 27.06.2018 on pilot basis, for solarization of agriculture connections under the jurisdiction of State Distribution Licensees. The Daily Order dated 14.09.2018 was passed by the Commission wherein at Para 3 it is mentioned that "...on behalf of all Petitioners, Shri J.J. Gandhi confirmed that the*

State Government had issued clarification vide letter dated 13.08.2018 to the SKY Scheme regarding not to levy fixed charges of Rs. 20/HP/Month from participating metered agriculture consumers. (Attached Annexure A)

b. *In spite of clarification by the Government as stated in Para 2 (a), the executing agency GUVNL has issued the Circular No. Accts/CFN/ SKY/ Billing /551 dated 15.10.2019 (Attached as Annexure B) asking all DISCOMs Offices to charge fixed charges as per Tariff for metered consumers of SKY Scheme, which reads as under:*

4) Accounting of Fixed Charges as per HP as per GERC Tariff on bi monthly basis as all SKY consumers are metered consumers.

The final order made in Petition No. 1729/2018 on date 28.10.2018 contains the Para as under:

"...2.11. The Petitioners, vide their addendum petition dated 31.08.2018, submitted that pursuant to the main petition filed by them, the State Government had issued clarification vide letter dated 13.08.2018 to the SKY Scheme regarding non levy of fixed charges of Rs. 20/HP/Month from participating metered Agriculture consumers.

2.12. It is submitted that under the scheme, participating farmers will meet their power requirement from energy generated from Solar PV project installed in their field. Therefore, it is appropriate that fixed charges of Rs. 20/HP/Month may not be levied from participating farmers in order to encourage large scale participation and also to promote renewable source of energy.

2.13.The Petitioners submitted that the addendum to the petition is filed to incorporate the above clarification issued by the

Government of Gujarat and to amend the prayer made in the petition accordingly.

c. *Kind attention is drawn of Hon. Commissions comments in one of the Tariff orders in Petition No. 1701/2018 made as under (Attached Annexure C):*

"...3. Brief outline of objections raised, response from MGVCL and the Commission's View

".....10. The Objector has requested the Commission to direct the licensees not to issue any circular(which involves financial burden or financial benefit to any consumer) without getting the approval of Commission. Approval granted by the Commission or the power to issue the circular quoting the provisions of Act, Rules and Regulations should be disclosed in the circular. If any circular is issued which does not involve financial implications, DISCOM should give certificate on that circular confirming that no financial part is involved in this circular thus no permission is required from the Commission for this particular circular.

Response of DISCOMs

.....

Commission's view

Normally, activities of licensees having financial impact on its consumers are governed through various Regulations notified by the Consumers. stakeholders may bring specific instances in this regard to the notice of the Commission……..

d. *Now this is clear-cut violation of the instructions of Hon. Commission as well as disobedience of clarification dated 13/8/2018 made by Sate Government in GR dated 27/6/2018. (Annexure H) Whether any concurrence was obtained from Hon.*

Commission or not, is the prime issue in this regarding to fixed charges The DISCOMs are independent to decide matter and may seek clarifications from Hon. Commission. GUVNL has no authority to issue directives under EA 2005/2003.

e. *In past also such circulars were issued by DISCOM on instruction of GUVNL are set aside by Competent Authorities e.g. (1) Circular of MGVCL Dated 25/2/2013 for charging residential category having contract demand above 40 KW above in LTMD tariff instead of RGP category and same was modified after order made in Petition 1305/2013 on 8/8/2013. (2) Circular issued for regularizing additional load as per section 4.95 of Supply codeby MGVCL's Circular Dated 1/4/2016 and that of DGVCL Dated 8/8/2016 were challenged and the charging of LTMD for HTP -1 Tariff with enhancement of Distribution losses in excess drawal cases, are turned down by Hon. Ombudsman. No Circular was place on website of MGVCL or GUVNL in public domain. On account of monopolized business DISCOMs and GUVNL behave as dictators in respect of levying of charges and violates the instructions laid down and given by Hon. Commission. Whether the circular at Annexure B has any authenticity?*

3. MAJOR POINTS RELATED TO SCHEME NEEDS CLARIFICATIONS

a. *The Scheme SKY was launched with noble motive*

   i. *To provide adequate and reliable day time power to farmers by installation of solar PV panels.*

   ii. *To incentivize farmers by selling surplus solar power to DISCOM and to provide secondary source of income to farmers thereby encouraging farmers for efficient utilization of power and water.*

iii. *To help farmers to become self-reliant for their power requirement.*

iv. *To create employment opportunities in rural area.*

v. *To reduce financial burden of DISCOMs and Government as well as cross subsidization by other consumers.*

vi. *To promote source of renewable energy and meet solar renewable purchase obligation of DISCOMs.*

The scheme is having various benefits to various stakeholders i.e. farmers, society as a whole, DISCOMs and the Government. Further, power generated from the Solar PV Projects set up under the scheme will be accounted towards meeting of RPO of DISCOMs. Moreover, this Scheme will help in reducing cross subsidization among consumers and thus, it is also beneficial to other categories of consumers. The Commission has been requested to allow the DISCOMs the purchase of surplus solar power from the participating farmers under pilot scheme at fixed rate of Rs. 3.50/Unit, which is in line with the Commission's Solar Tariff Order dated 17.08.2015.

b. *The project cost for individual is based on the rate finalized of executing agency in various slab capacity of SPV Plant and sample of project cost working differs from presentation and execution circular dated 24.07.2018 as under:*

Valid solar plant capacity for benefit of scheme:
Upto Contract Demand = 1 HP x 1.25 = 1.25 KW Plant capacity
For Plant > 9 KW up to 20 KW 50295/- Per KW

Example

Particulars	*As per Scheme PPT*	*As per Circular*
Contract Demand	*10 HP*	*10 HP*

SPV Plant	*= 10 X 1.25 = 12.5 MW*	*12.0 KW*
Rate of SPV/KW	*₹50295*	*₹ 50295*
Total Cost of	*₹ 628687.5 say 628690/-*	***₹ 603540***
5% upfront registration charges	*₹31435*	*₹30177*
30 % Central Government Subsidy	*₹188606*	*₹181062*
30 % State Government Subsidy	*₹188606*	*₹181062*
35% Consumers loan at Interest Rate 6% to be pay back in 7 yearly equal installment	***₹220041***	***₹211239***

10 HP = 10 x 0.746 KW = 7.46 KW say 7.5 KW. Against 7.5 Contract Demand 12 KW SPV Plant is oversized by 4.5 KW i.e. 60% more, thus the generation on account of excess capacity is directly fed to system to meet RPPO at negligible rate at investment about 40% made by consumer

c. *30% State Government Subsidy*

i. *It was given understanding that the contribution of project cost for each consumer would be as mentioned in GR which is as under Part of power point presentation by Secretary EPD is attached as Annexure D.*

ii.

Total Cost of Project	*5% upfront registration charges*	*30% Central Gov. Subsidy*	*30% State Gov. Subsidy*	*35% Consumers loan at Interest Rate 6% to be pay back in 7 yearly equal installment.*

The consumer liabilities are limited to 40% of the total cost. Further the State Govt. has taken loan to fulfil his commitment for 30% subsidy. The installment of this loan is met through the amount realized on account of injected unit in to system over

and above consumption made by consumer at Rs 3.50 per KWH in form of Evacuation Based Incentive (EBI) over and above by DISCOM, limited to 1000 unit/ year/KW of SPV Plant.

iii. *It is observed that the generation as assured has hardly reached as per assured CUF of 18.3 to Maximum 20% as per GUVNL Circular as well as terms and conditions of agreements (Attached as Annexure J) and Order made to agency for execution of work of SKY Scheme. The installment amount 30% State Government Subsidy does not lie with consumers. On account of not maintaining and not monitoring (as per Agreement) in no. of cases the shortfall amount of 30% loan against Govt. Subsidy installment is recovered by MGVCL and drastic action of disconnection are made for recovery of same, If generation is not possible up to limit of EBI unit, than it can be said that all inferior quality of work and material is utilized under supervision of respondent MGVCL.*

d. *CAPACITY UTILIZATION FACTOR*

Consistent Capacity Utilization Factor is the main part of Scheme. Its various reference are as under:

i. *As per Slide No. 25 of PPT for 12.5 kw Annual Generation = 20000 KWH*

∴ CUF = 20000/ (12.5 x 8760) %= 18.26 say 18.3%.

ii. *As per GUVNL Circular dated 24.07.2018 Para 35.*

"..... CUF (Capacity Utilization Factor) ની ગણતરી EOI for Empanelment of SPV Agencies (vide No: PGVCL/DSM/EOI/Ag. Solarization/2018-19/01 dated 29/05/2018) ની શરતો ને

આધીન રહેશે. આ CUF ની ન્યુનતમ મર્યાદા ૧૮.૩% અને મહત્તમ મર્યાદા ૨૦% રહેશે....."

iii. *Ms. Sahaj Solar Pvt. Limited, Ahmedabad was awarded contract as Implementing agency for design, supply, installation. Testing and commissioning and comprehensive maintenance for 7 years of Distributed Grid Connected Solar PV plants of capacity 5 KW to 150KW (AC) for providing Solar PV system to agriculture consumers on various agriculture feeders within Jurisdiction of MGVCL vide Load Letter of Acceptance of offer vide No. MGVCL/RA&C/SKY 2875 Dated 30/7/2018 and detailed order for Zanjad Feeder vide No/MGVCL/PP/DSM//PG=SKY/ Zana/Sahaj/1620 Dated 10/6/2019 having Master LoA No. PGVCL/ R&C/ DSMCELL/ SKY/ 5739 Dated 23/7/2018 Part of Load attached as Annexure E*

Para 14 of the said Order relates to guarantee and CMC, and 14 C relates to generation guarantee according to which guaranteed CUF is 18.3% valid with 1% degradation of for 7 years on year to year basis and it will be calculated on yearly basis and verification by MGVCL. The shortfall of guaranteed CUF will be compensated at Rs 7/ unit with GST at end of Financial year and will be passed on to Consumer.

The Para 8 (j) tri-party agreement between consumer - First Party MGVCL - 2nd Party and Agency - 3rd Party speaks about compensation against the lost generation. The details of Lost generation and Compensation is worked out capacity wise for each Financial year by us is attached Annexure F. According to it since beginning guaranteed CUF is not maintained and even after 3 ½ years no compensation has been made to any

consumer on completion of half period of the Guarantee Period of 7 years. It is observed that in first two FY End Bills the consumption and generation quantity were interchanged in most of the consumers. However, as per served bills up to 31.03.2023 the generation lost and compensation to be made is as under as per billed served so far (without any revision in any bill).

Trambovad feeder	*Consumers*	*81*	*SPV Plant*	*1441 KW*	
	2022-23 365 days	***2022-23 365 days***	***2022-23 365 days***	***2022-23 365 days***	***2022-23 365 days***
Generation	*96301*	*813261*	*1786008*	*1807081*	*4502651*
KWH = 1441 x Hrs. of Period	*3812886*	*12623160*	*12623160*	*12623160*	*41682366*
CUG	*2.53*	*6.44*	*14.15*	*14.32*	*10.80*
Shortfall of Generation	*213814*	*1496777*	*500930*	*449234*	*2660755*
Compensation in Rs	*1496696*	*10477441*	*3506509*	*3144637*	*18625283*

4. Violation of GR of the Government of Gujrat and of Orders made by Hon. Commission in Petition No. 1729/2018

a. *As per Para 3 of Daily Order Date: 14.09.2018, on behalf of all Discoms Petitioners and GUVNL the executive agency of SKY Scheme, confirms and informed Hon. Commission that the State Government had issued clarification vide letter dated 13.08.2018 to the SKY scheme regarding non levying of fixed charges of Rs. 20/HP/Month from participating metered agriculture consumers. Even than the circular of levying fixed charges were issued by GUVNL on 15.10.2019, the Para of the Circular is reproduced is as under:*

"……. 4) Accounting of Fixed charges per HP as per GERC Tariff on bi-monthly basis as all SKY consumers are Metered consumers……."

The field offices and DISCOMs obeyed the circular and fixed charges were levied. The questions arise that -

I. *Whether the approval of the Commission is received for issuing the said Circular?*

II. *Whether the GUVNL has an authority to interfere in the tariff matter of DISCOMs and to encroach the power of Hon. Commission?*

III. *Whether the State Government has withdrawn the clarification dated 13.08.2018?*

IV. *Whether it is not the breach of instructions given in very recent past of the Order of Petition No. 1729/2018 and in one of the tariff orders made on 31.03.2018 with respect to Chapter No. 3 – Brief outline of objections raised, response from MGVCL and the Commission's view (Attached Annexure C)*

".....10. The Objector has requested the Commission to direct the licensees not to issue any circular (which involves financial burden or financial benefit to any consumer) without getting the approval of Commission. Approval granted by the Commission or the power to issue the circular quoting the provisions of Act, Rules and Regulations should be disclosed in the circular. If any circular is issued which does not involve financial implications, DISCOM should give certificate on that circular confirming that no financial part is involved in this circular thus no permission is required from the Commission for this particular circular

Response of DISCOMs

_____

Commission's view

Normally, activities of licensees having financial impact on its consumers are governed through various Regulations notified

by the Consumers. stakeholders may bring specific instances in this regard to the notice of the Commission....."

b. Final Order Dated:29/10/2018 (Annexure A)

Para 2.11 speaks about clarification vide letter dated 13.08.2018 of SKY Scheme GR.

Para 6 speaks about approval of Pilot project for SKY Scheme with certain advice /conditions the licensee to go in for lower number of feeders say, 50 feeders or so and conduct cost benefits analysis after the results of two quarters and then implement the scheme based on the results. Among 5 directives made, the 4th and 5th important directives are as under:

"...(4) The licensee shall submit details of number of feeders, number of farmers whooped for the scheme, energy purchased from farmers, amount paid to farmers, losses in selected feeders, cost and benefit of the scheme etc. to the Commission after the end of the current financial year.

(5) After receiving the above details, the Commission shall take a final view on the proposal of the petitioner to charge a tariff of Rs.3.50/Unit for net energy consumed by the farmers, in order to protect the interest of farmers. Till such time the Commission decides, the licensee shall charge the regular tariff as applicable to relevant category....."

We are sure that even after completion of half of the Guarantee period and ownership of the DISCOMs property no reports of the cost and benefit of the scheme etc. has been made available to us or on website. It is reported in CGRF Order dated 13.09.2023 Attached as (Annexure L) that Cost benefit analysis report is submitted on

02.08.2022. It is requested that the Commission to issue direction to provide copies of cost benefit analysis different agencies who have executed in nearby area of Petlad Division or within Anand Circle.

05. *For FY 2019-20 and 2020-21, the Respondent himself was not sure that what is consumption and what was generation and it was interchanged came to knowledge during serving of 3rd annual bill for FY 2021-22. The Bills are attached as Annexure K. The report submitted on 02.08.2022 may have data for partial period of FY 2019-20 and FY 2020-21 and FY 2021-22. The Petitioner being the stake holder of the scheme, it could have been made available to him without demand of same before approaching to CGRF as advised in order dated 29.10.2018.*

06. *For FY 2019-20 and 2020-21, the bills are not billed as per billing cycle as per guide line of Circular of GUVNL. Only yearly bills for first financial year 2019-20 were served after 2 months delayed period. It is observed that in most of the consumers for FY 2019-20 (for 49 days) and FY 2020-21 (for 365 days) the quantity of consumption and generation were interchanged, and no revised /corrected bills were issued. The question arises that how the generation and performance is monitored by respondent MGVCL? In absence of billing at regular interval of billing cycle, resulted in to huge loss CUF had remained unnoticed and unclaimed for compensation as per LOA with Agency.*

07. *We requested to respondent for loss of compensation on basis of actual bills served as said in above Para 3 (d) (iv), but on getting the details after CGRF hearing we ourselves recalculate CUF and performance and tried to evaluate the cost benefit analysis is attached at Annexure I.*

08. Loan Installment

i. *The Respondent is not sincere in implementing the scheme can be summarized on basis of following incidents*

ii. *In first FY 2019-20 the bills served by about 3 months delay for period of 49 days generation. Loss of Interest on creditable amount has not been accounted because 3 months delay.*

iii. *For 49 days period, the first installment is charged full for the entire year in most of the consumers resulting into unrest against working of respondent.*

iv. *Bimonthly billing is not followed resulting into unawareness of respondent of deteriorated CUF from beginning.*

v. *Generation and consumption data were interchanged came to knowledge of respondent at time of serving 3rd financial year Annual bill.*

vi. *The 5% upfront registration charges of project cost were recovered and remaining loan amount was to be bifurcated in first installment for the period of date of commissioning i.e. from 12th February 2020 to 31st March 2020 and subsequent yearly installment. The installment amount is not as per criteria of equal loan installments for the given period and rate of interest.*

vii. *The Respondent is not sure and confident about installment amount till 30.03.2023 and it was revise in bill of 31.03.2023.*

viii. *The solar penal were to be installed of 1.25 KW / HP of contract demand, i.e. about 60% more than his requirement to meet his consumption. (1 HP= 0.746 KW). Instead of it was round down as under:*

HP	*SPV as per GR*	*Installed SPV*	*Could have Roundup to*
7.5	*9.375*	*9*	*10*
10	*12.5*	*12*	*13*
15	*18.75*	*18*	*19*
30	*37.5*	*35*	*38*

If plant would have been considered as above all extra generation would have make direct earing for easy payment of installment

Sr. No.	HP	No of Consumers	SPV Installed per consumer in KW	SPV Installed per consumer in KW	Total Installed capacity of SPV	Total Installed capacity of SPV Ought to be
1	7.5 hp	3	9	9.38	27	28.14
2	10 hp	4	12	12.5	48	50
3	15 hp	3	18	18.75	54	56.25
4	20 hp	3	25	25	75	75
5	25 hp	3	30	31.5	90	94.5
6	30 hp	3	35	37.5	105	112.5
	TOTAL	19			399	416.39
The extra 17 kw would have Entire generation into system 149 x 17 23953 KWH with earning of Rs. 167671/-						

ix. *Attached sample bills as 'Annexure K' so as to justify what is stated in above Paras are the real fact of system along with the analysis as below on basis of the bills served to about 23% of consumers.*

Sr. No.	HP	Generation	consumption	Difference	Average Generation /year/KW	Average Consumption Per HP/Year
1	7.5 hp	107600	56879	50721	1273	808
2	10 hp	182541	49061	133480	1215	392
3	15 hp	323688	119531	204157	1915	849
4	20 hp	323998	120876	203122	1380	644
5	25 hp	374561	184442	190119	1330	786
6	30 hp	440574	100709	339865	1341	358
	TOTAL	1752962	631498	1121464	1409	639

Sr. No.	HP	AS Per Bill		As per corrected ledger		Installment Ought to be	
		35% Loan Amount	30% Loan Amount	35% Loan Amount	30% Loan Amount	35% Loan Amount	30% Loan Amount
1	7.5 hp	275763	236367	275763	236367	268590	230223
2	10 hp	474400	406636	474400	406636	462068	396056
3	15 hp	492924	422510	533700	457461	519822	445560
4	20 hp	556095	517510	665412	570351	648105	555516
5	25 hp	765606	656238	798498	684426	777729	666618
6	30 hp	793912	679672	931575	798498	907347	777729
	TOTAL	3358700	2918933	3679348	3153739	3583661	3071702
The installment amount was shown in bills were revised in ledger later on even than it is over charged by Rs 17724							

Sr. No.	HP	Fixed Charge	35% Loan Installment		30% Loan Installment	
			Refund	recovery	Refund	recovery
1	7.5 hp	15502.5	31398.5	131426.5	25139	80585.5
2	10 hp	27068.33	79319.5	90722	67141	58292
3	15 hp	29530.5	57742	171542.5	80819.5	124206
4	20 hp	96780.5	271839	219613	244792	211401
5	25 hp	48836.2	67582.5	175146.5	117241	115437
6	30 hp	58788.75	517152	124235	431167.5	75795
	TOTAL	276507	1025034	912686	966300	665717

09. Cost Benefit Analysis

On request with Respondent, the report made to Hon. Commission by the Respondent in respect of Para 6 (4) of the of the Order made in Petition No. 1829/2018 which is merely a statically filled up data in the form, but missing with cost benefit analysis attached as Annexure M. Petitioner tried to analyse the data for cost benefit analysis for Trambovad Feeder is attached as Annexure N.

10. THE AGREEMENTS

The Supply Code 2015 relates with the Agreement which reads out as under Execution of Agreement.

> *4.98 An applicant shall enter into an Agreement either separately or in application itself with the Distribution Licensee before commencement of work accepting the terms relating to tariff and other conditions of the Supply Code.*
>
> *4.99 The specimen agreement form shall be supplied by the licensee along with application form and shall also be available on the licensee's website for download.*

For SKY Scheme, the new format and type, 2 No. of agreements are introduced and made compulsion to sign. These agreements were not made available and made known to SKY Scheme participants as per Section 4.98 and 4.99 before registration and 5% upfront project cost payment. The agreements are designed and formed looking to interest of respondents. All section and Para of Bi party and tri party agreements safe guards the interest of respondent and work executing Agency. The tri-party agreements contains the details of the order made by respondent with agency but the participants are out of reach to it. (Part of the Bi Parties and Tri parties Agreement are attached as Annexure G. Any lacuna on part

of agency is to be monitored 100% from date of commissioning by respondent. The copy of agreements was made available only who applied under RTI and the details are missing required to be inserted. In short, blank agreement got signed from consumer without informing to the consumers as per Para 6(2) of the Order passed in Petition 1729/2018 (Annexure A)

Attention is drawn towards following para of tri-parties agreement, bi-parties' agreement and GR.

Tri party's agreement

8. સોલાર એજન્સી (ત્રીજા પક્ષકાર) ના કાર્યો અને જવાબદારીઓ:-

b) SPV સિસ્ટમની સારસંભાળ -મરામત વગેરેની તમામ જવાબદારી સિસ્ટમ કાર્યરત થયા બાદ સાત વર્ષ સુધી સોલાર એજન્સી (ત્રીજા પક્ષકાર) નીરહેશે.

10. અન્ય શરતો:-

h) એજન્સીએ (ત્રીજા પક્ષકારે) સોલાર સિસ્ટમ ની ક્ષમતા ના વાર્ષિક ૧૮.૩% CUF (કેપેસિટી યુટીલાઇજેશન ફેક્ટર) મુજબ વીજ ઉત્પાદન થશે તે અંગેની ખાતરી આપેલ છે. CUF ની ગણતરી જે તે વીજ ફીડરની વાસ્તવિક ઉપલબ્ધતા ૯૦% થી ૧૦૦% વચ્ચે હોય એ કિસ્સા માં CUF ની ગણતરી ૯૦% ફીડર ની ઉપલબ્ધતા પ્રમાણે ગણવાનો રહેશે. જે કિસ્સામાં વીજ ફીડરની ઉપલબદ્ધતા ૯૦% થી ઓછી હશે તેવા કિસ્સામાં એજન્સીને (ત્રીજા પક્ષકારને) દંડ કરવામાં આવશે નહીં અને ખેડૂત (પ્રથમ પક્ષકાર) આ અંગે કોઈ વળતર મેળવવા હકદાર થશે નહીં. સાત વર્ષ સુધી CUF ની ગણતરી વાર્ષિક ધોરણે કરવામાંઆવશે.

Bi parties' agreement

10. વાણિજ્યક હિસાબ: (Commercial Settlement):-

III. રાજ્ય સરકાર દ્વારા ચૂકવાતી આ EBI રાજ્ય સરકારનાં 30% ફાળા પેટે ગણવામાં આવશે અને તે ધિરાણકર્તા સંસ્થા / નાબાર્ડને લોન હપ્તા પેટે ચૂકવવામાં આવશે.

VI. ઉપરોક્ત લોનનો હપ્તો ચૂક બાદ ગ્રાહકને ચૂકવવા પાત્ર થતી રકમ જો ગ્રાહક તેની બાકી રહેતી લોન સામે સરભર કરવા માગે તો તે કરી શકશે પરંતુ જો કોઈ કિસ્સામાં ખેડૂત દ્વારા

ગ્રીડમાં વેચેલ વીજળીની રકમ કરતાં લોનનો હપ્તો વધારે હોય તો તેવા સંજોગોમાં બાકી રહેતી રકમ ગ્રાહકે ભરપાઇ કરવાની રહેશે.

GR dated 3227/06/2018

ઠરાવ ક્રમાંક : SLR/11/2016/2284/B1

ગ્રીડમાં વેચી શકશે. આ ઉપરાંત ગ્રીડનાં સપોર્ટ સાથે દિવસ દરમ્યાન આશરે બાર કલાક સુધી વીજ પુરવઠો મળી શકશે, તેમજ વીજળી જ્યાં ઉત્પાદિત થાય ત્યાં જ ખેડૂત તેનો ઉપયોગ કરી શકશે.

Going through the records, it is observed that system for each capacity of motor the installed solar plant has not reached the 18.3% CUF. If bi-monthly reading as per billing cycle would have been taken the loss of generation could have been detected and corrective action could have been initiated to avoid further deterioration CUF.

As per the agreement, the first seven year, the project property ownership lies with Respondent and he has to maintain the same till handing over to consumer on completion of 7 years on 12.02.2027, the consumer will accept the property if it will be in acceptable condition at that time as per assured CUF, else committee will ask all the members to surrender the solar plant as per Para 11 (n), as in existing condition and to restore the previous

state of connection as agreement is not designed and formed without concerning the first party prior to execution.

There is also discrimination in execution of Scheme.

A certain location the additional load was sanctioned prior to payment of 5% upfront charges and Solar plant were sanctioned as per revised contract demand. The various participants of Trambovad feeder were registered for additional contract demand, but they were not sanctioned additional load without showing any reason and registration fee was refunded. Even in case where there was no source of water in land the new connection, additional load was sanctioned and same were considered for SKY Project. Such incidents need justification and verification for discrimination made in implementation of SKY Scheme.

12. *PRAYERS:*

1. *Ask the respondent to issue all revised correct bill for entire period from commissioning till date with assured amount of installment.*
2. *The shortfall on loan installment of 30% Govt loan for subsidy should not be recovered from consumer if the CUF is less than guaranteed CUF of 18.3% of Solar Plant installed at Petitioners' Farms as it is the duty of respondent to maintain the property with almost 100% care so that assured generation may availed during guarantee period and beyond guarantee period also, so that it can be hand over in healthy and sound condition that, it can survive for its life span of 25 years*
3. *The delayed claim on account of respondent for compensation with agency may immediately be settled and payment to eligible consumer may be made with interest from date of eligibility to*

date of actual payment. i.e. for compensation for FY 2021-22 the period for interest may be considered from 1-4-2022 to till date of payment.

4. *No connection should be disconnected on account of shortfall of loan amount if previous claim is pending for refund*
5. *The recovery made on higher side of loan amount to be refunded with interest from date of adjustment*
6. *The revised consumer loan installment amount may be informed to all consumers*
7. *It is requested that Hon. Commission to issue direction to provide copies of cost benefit analysis different agencies who have executed solar projects in nearby area of Petlad Division or within Anand Circle.*
8. *(a) Hon. Commission is requested to pass on necessary orders, instructions etc. for immediate steps to be taken in time bound programmed so as to achieve fruitful results of the scheme launched with noble motive of the both Government as mentioned in presentation and GR. and plant can be handed over by respondent - present owner of property on 12/2/2027 in safe sound conditions with all needed rectifications which are needed at present to be taken by Respondent and the agency engaged by him.*

   (b) The assured CUF is not maintained and observed since commissioning, the respondent may be asked to Refund the Compensation against loss on account of Poor CUF.

   (c) make all system 100% efficient before handing over the assts on 12/2/2027.

(d) *Any plant with long life is supplied with consumable spares, so that in future the same model or pattern is out dated it can survive with spares provided.*

(e) *If present installed system is inefficient. Then it should be replaced or additional panel may be installed at cost of agency to give generation as assured during life time.*

……."

3. The Respondent MGVCL vide affidavit dated 01.01.2024 filed its reply in the matter stating as under:

3.1. The present Petition has been filed by the Petitioner as an association of consumers of the Respondent No. 1 MGVCL in regard to the SKY Scheme under Government Resolution dated 27.06.2018 as implemented under the Order dated 29.10.2018 in Petition No. 1729 of 2018.

3.2. It is submitted that the Petition filed is not maintainable before the Commission as it relates to a consumer dispute within the scope of Section 42(5), (6) and (7) of the Electricity Act, 2003. As per the decisions of the Hon'ble Courts, such disputes are to be agitated before the Consumer Grievance Redressal Forum (CGRF) with further representation to Ombudsman and cannot be maintained by way of a Petition before the Commission. In this regard Section 86(1) (f) of the Electricity Act, 2003 restricts the adjudicatory jurisdiction of the Commission to disputes between licensees and generating companies or between two licensees and not disputes raised by a consumers on matters of invoices, billing etc.

3.3. Section 42 of the Electricity Act, 2003, inter-alia, provides as under:

"Section 42. (Duties of distribution licensee and open access): -

……

(5) Every distribution licensee shall, within six months from the appointed date or date of grant of licence, whichever is earlier, establish a forum for redressal of grievances of the consumers in accordance with the guidelines as may be specified by the State Commission.

(6) Any consumer, who is aggrieved by non-redressal of his grievances under sub-section (5), may make a representation for the redressal of his grievance to an authority to be known as Ombudsman to be appointed or designated by the State Commission.

(7) The Ombudsman shall settle the grievance of the consumer within such time and in such manner as may be specified by the State Commission.

(8) The provisions of sub-sections (5), (6) and (7) shall be without prejudice to right which the consumer may have apart from the rights conferred upon him by those sub-sections."

3.4. It is submitted that the Hon'ble Supreme Court in Maharashtra Electricity Regulatory Commission V/s Reliance Energy Limited and MSEDCL V/s Lloyd Steel Industries Limited, (2007) 8 SCC 381 and has considered the aspect of jurisdiction of the Commission in relation to consumer grievances. In the context of appeal in relation to Llyod Steel, it was held that all individual grievances of consumers have to be raised in the forum (CGRF). There is no dispute that the Petitioner are consumer and therefore, the issues relates the consumer grievances. Therefore, when there is a forum for such grievances, then consumers can resort to only these bodies for redressal of their grievances and cannot approach the Commission.

3.5. It is submitted that in regard to appeal in relation to Reliance Energy,, it was held as under:

"*13. It may be noted from a perusal of Section 86(1)(f) of the Act that the State Commission has only power to adjudicate*

upon disputes between licensees and generating companies. It follows that the Commission cannot adjudicate disputes relating to grievances of individual consumers. The adjudicatory function of the Commission is thus limited to the matter prescribed in Section 86(1)(f).

……

3.6. It is submitted that there is no dispute that the Petitioner are consumer and therefore, the issues relates the consumer grievances. Hence, when there is a forum for such grievances, then consumers can resort to only these bodies for redressal of their grievances and cannot approach the Commission.

3.7. It is submitted that the Hon'ble Appellate Tribunal in its Judgment dated 30.03.2009 in case of BSES Rajdhani Power Limited V/s. Delhi Electricity Regulatory Commission in Appeal No. 181 of 2008, has held that the State Commission has no jurisdiction in case of dispute between the consumer and licensee and consumer can only approach the grievance cell, i.e., CGRF and thereafter Ombudsman.

3.8. Reliance is also been placed on the judgement dated 01.07.2022 of the Hon'ble High Court of Gujarat in SCA No. 18138 of 2016 in the matter of Rashmikaban Navinbhai Patel & Others V/s. Uttar Gujarat Vij Company Limited, has held as under:

"7. The Supreme Court while examining the provisions of Section 42(5) of the Act has held that all individual grievances of consumers are to be raised before the forum only. In the State of Gujarat, the respondent-Company has its own redressal forum and ombudsman and hence, the petitioners can file appropriate proceedings before the appropriate form to redress their grievances.

8. In this view of the matter, the writ petitions are rejected. Notice is discharged. As a sequel, civil applications do not survive and the same are disposed of accordingly."

3.9. In view of the above judgments, it is clear that any dispute raised by a consumer has to be before the forum (and ombudsman) only and the Commission cannot adjudicate any dispute between a consumer and licensee.

3.10. In this regard, the Commission has notified the GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019, which provides as under:

"1.5 Definitions

In these Regulations, unless the context otherwise requires:

……..

c) "Complainant" means (a) any Consumer or Consumers including their legal heirs or successors, having a Complaint against a Licensee and lodging the same either directly or through their representatives; or (b) any voluntary consumer association or associations, registered under the law for the time being in force and making the Complaints in the larger interest of the Consumers; or (c) any Consumer(s)/ voluntary consumer association(s) where the Licensee does not register or fails to register the Complaint of such Consumer(s)/voluntary consumer association(s); or (d) any person whose electricity connection is disconnected; or (e) an applicant for a new connection for the supply of electricity.

……..

Chapter 2

Consumer Grievances Redressal Forum (CGRF)

Number, Locations and Sittings

2.1. In terms of Sub-section (5) of Section 42 of the Act every Distribution Licensee shall, within three months of the date of notification of these Regulations or date of grant of licence, whichever is later establish Forum(s) to ensure redressal of the Grievances of the Complainants within the time frame specified in these Regulations and in accordance with the guidelines laid under these Regulations.

2.2. The number of Forums, their Locations and areas of jurisdiction of each forum may be decided by the Licensee. While deciding the number of Forums, location and area of jurisdiction, the Licensee shall ensure that adequate number of Forums are established such that consumers under the jurisdiction of the respective Forum have an easy access to the Forum, Members of the Forum are able to conduct at least one sitting in each revenue district in a month and all Grievances are redressed within the time-limit specified under these Regulations.

2.3. In order to ensure that all Grievances are disposed within the specified time-limit and enhance the ease of consumers to reach the Forum, the Commission may, from time to time, require the Licensee to increase the number of Forums and also increase the reach of the Forums for the convenience of the consumers.

2.4. The Forum shall function in the interest of the Act, Rules and Regulations framed thereunder and orders and directions issued by the Commission from time to time. Any undue hinderance in the independent functioning of the Forum can be reported to the Commission.

……

Rights of Consumers to Approach the Forum

2.31.A Complainant can approach the Forum in the following events:

i. If the Licensee fails to register a Complaint; or

ii. If the Licensee fails to resolve a Complaint in accordance with the Standards of Performance specified by the Commission; or

iii. If the Consumer/Complainant is not satisfied with the Redressal of the Complaint (including dismissal) even after taking up the issue at the level of division head/circle head, as provided for in the Standards of Performance.

2.32 The Consumer may directly approach the Forum with a Complaint/ Grievance at the office of the Forum, which the Forum may forward to the Licensee for the necessary action. In case of urgency of the issue involved, the Forum may initiate the procedure of addressing the Complaint/Grievance at its level.

……..

Issue of Order

2.55. In case of non-implementation of the Forum's order, the Complainant may represent to the Ombudsman to direct the Licensee to implement the Forum's order. Non-implementation of the Forum's order by the Licensee shall be deemed to be a violation of the Regulations and shall be liable for appropriate remedial action.

……..

Representation before the Ombudsman

2.69. A Complainant may prefer a representation before the Ombudsman appointed/designated by the Commission under the following circumstances:

i. If the Complainant is aggrieved by the non-redressal of the Grievance by the Forum within the period specified;

ii. If the Complainant is aggrieved with the order passed by the Forum;

iii. Non-implementation of Forum's order by the Licensee in specified time limit.

2.70. Such a representation may be made within a period of 30 days after issue of order by the Forum or expiration of 30 days after the deadline specified for issue of the order, or within 30 days after the deadline specified for implementation of order, whichever is applicable.

2.71. The Forum may settle any Complaint/Grievance in terms of an agreement reached between the parties at any stage of the proceedings before it and there shall be no right of representation before the Ombudsman against such order.

Chapter 3 Ombudsman

Appointment of Ombudsman

3.1. In accordance with Sub-section (6) of Section 42 of the Act, the Commission may, from time to time, appoint or designate a person as Ombudsman to discharge the functions in accordance with Sub-section (7) of Section 42 of the Act.

……..

Powers and Functions of the Ombudsman

3.18. The Ombudsman shall have the following powers and duties:

i. To receive Representations, consider such Representations and facilitate settlement by agreement, through conciliation and mediation between the Licensee and Complainant, and pass an order in accordance with these Regulations where such conciliation is not reached.

ii. On receipt of information from the Forum regarding non-compliance of the Forum's order by the Distribution Licensee, the Ombudsman shall initiate proceedings for implementation of Forum's order by the Licensee.

iii. The Ombudsman shall in the first instance act as a counsellor and mediator in matters which are the subject matter of the Representation.

iv. The Ombudsman shall exercise general powers of superintendence and control over its office and shall be responsible for the conduct of business thereat.

v. The Ombudsman shall have the powers to incur expenditure on behalf of the office. In order to exercise such power, the Ombudsman shall draw up an annual budget for its office in consultation with the Commission and shall exercise its powers of expenditure within such approved budget. The budget shall have the provisions for the administrative expenditure of the Ombudsman. The Commission shall sanction the required amount out of the Fund. The Commission shall, however, supervise the utilization of such amount and shall issue such instructions, from time to time, as it may deem reasonable and necessary.

Pre-conditions/Limitations for Entertaining Complainant's Representation

3.19. A Representation may be entertained by the Ombudsman only if all of the following conditions are satisfied:

i. It has been filed by the Complainant (aggrieved Consumer). For avoidance of doubt, a Licensee is not allowed to file a Representation before the Ombudsman against the order of the Forum.

ii. The Complainant had, before making a Representation to the Ombudsman, approached the Forum constituted under Sub-section (5) of Section 42 of the Act for redressal of his Complaint/Grievance.

iii. The Representation by the Complainant, in respect of the same Complaint/Grievance, is not pending in any proceedings before any court, tribunal or arbitrator or any other authority, or a decree or award or a final order has not been passed by such authorities.

iv. The Complainant is not satisfied with the redressal of his Complaint/ Grievance by the Forum or the Forum has rejected the Complaint/Grievance or has not passed the order within the time limit specified or the Distribution Licensee has not implemented the Forum's order within specified time limit.

v. The Complainant has filed the Representation before the Ombudsman within 30 days from the date of receipt of the order of the Forum or date of expiry of the period within which the Forum was required to issue the order, or date of expiry of the

period within which Distribution Licensee has to implement Forum's order, whichever is applicable:

Provided that the Ombudsman may entertain an appeal after the expiry of the said period of 30 days if the Ombudsman is satisfied that there is sufficient cause for not filing it within that period.

vi. The Representation does not fall under Sections 126, 127, 135 to 139, 152 and 161 of the Act.

vii. The Complainant who claims compensation from the Distribution Licensee has paid such fees as may be stipulated by the Commission from time to time.

viii. The Complainant has deposited one third amount in terms of the Forum's order, if required, with the Licensee and submitted a proof of payment made.

3.20. Subject to the provisions of the Act and these Regulations, the Ombudsman's decision on whether the Representation is fit and proper for being considered by it or not, shall be final.

……..

Issue of Order

……..

3.44. The Licensee shall duly comply with and implement the decision of the Ombudsman within 30 days of issue of the Order.

3.45. Non-compliance of the Ombudsman's Orders shall be considered as violation of these Regulations and shall be liable for appropriate action by the Commission under Sections 142 and 146 read with Section 149 of the Act.

3.46. The orders of the Ombudsman shall be final and binding on the parties. No party can file an appeal before the

Commission against the order. However, the rights of Complainant and Licensee to file an appeal before the judicial bodies shall remain protected.

3.47. The Ombudsman may review its order either on its motion, at any time, or on the application of any of the parties to the original proceedings within 30 days of the order on the following grounds:

i. Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within the knowledge of the person seeking the review or could not be produced by him at the time the order was made; or

ii. Mistake or error apparent on the face of the record; or

iii. Any other sufficient reason.

Provided that prior to initiating review of its order, the Ombudsman shall provide opportunity to all the parties to enable them to appear and to be heard.

……

3.49. Except in cases where a review application has been moved under the Regulation 3.47 above by either of the parties, in the event of non-compliance / non-implementation of any order passed by the Ombudsman by either of the parties, the consumer may approach the Commission for the enforcement of the order within a period of 30 days of the passing of the order or from the expiry of the time granted for the implementation of the order by the Ombudsman, whichever is later. The Commission may issue any order (including an order imposing fines and penalties on the Licensees, as provided for under the Act) or take any other steps, as it deems appropriate for the enforcement of the order."

3.11. In view of the above legal position, the Commission itself in the Order dated 29.10.2018 for implementation of the SKY Scheme provided as under:

> *"6..... The Commission understands that this scheme is being implemented in the interest of farmers and therefore the Commission is also concerned that the farmers must get the benefit of this scheme. Accordingly, the Commission allows 4 State owned DISCOMs to implement the scheme as a pilot project subject to compliance of the following directions:*
>
> *.....*
>
> *(3) For redressal of any grievance arising out of this scheme, a nodal officer shall be designated by the DISCOMs at the Division level. If the grievances are not addressed by the nodal officer within 30 days, the grievances shall be transferred to CGRF for necessary speedy resolution as per the Regulations"*

3.12. Thus, the Order where the Scheme was implemented and for which the Petitioner is claiming non-compliance itself provides for redressal of grievance before CGRF.

3.13. Thus, the grievance if any has to be addressed by approaching CGRF. In fact, the Petitioner through its President had approached CGRF of MGVCL and various issues were raised and CGRF had passed the Order dated 13.09.2023 with various directions. It is submitted that MGVCL has complied with the directions of CGRF. In the said Order, it has been stated as required under the 2019 Regulations that if the complainant is not satisfied with the Order of the Forum, the complainant may approach the Ombudsman in accordance with the 2019 Regulations and procedure to make representation before the Ombudsman has been provided.

3.14. Thus clearly the issue relates to consumer dispute and the Petitioner has already approached the CGRF. For any further grievance, the appropriate forum is the Ombudsman. There cannot be any appeal to the Commission against CGRF Order and further the same issue already raised before the CGRF cannot be raised before the Commission. There would be no purpose or reason to have CGRF if the same dispute raised before the CGRF is then raised before the Commission. This would encourage forum shopping. The Hon'ble Supreme Court has already held that the Commissions ought not to entertain petitions relating to consumer grievances.

3.15. In view of the above, the present Petition filed is not maintainable and should be dismissed on this ground alone. The Petitioner should first approach the Ombudsman by way of procedure prescribed by the Commission.

3.16. It is submitted that the issues involved in the present Petition also makes it clear that the issues relate to grievance of consumers and therefore, falls within the scope of Section 42(5) and 2019 Regulations. Further if there are issues in relation to tripartite agreement, the dispute resolution is provided therein also. As recognised by the Hon'ble Supreme Court and High Court of Gujarat, the grievances of consumers have to be raised before CGRF and Ombudsman and cannot be raised before the Commission. The Commission cannot decide on disputes between licensees and consumers. Otherwise, there would be no purpose in having CGRF and Ombudsman.

3.17. It is submitted that the SKY Scheme was introduced by Government of Gujarat vide GR Dated 27.06.2018 with to utilise the solar resources available in the State for benefit of the farmers. The objective inter alia was to provide to promote renewable energy while allowing the agriculture consumers to get 3 Phase power

supply from sunrise to sunset hours day time power supply for irrigation purpose and further receive additional income by selling surplus energy to grid. The scheme was to be undertaken on pilot basis and the scheme was submitted to the Commission for approval in the Petition No. 1729 of 2018. Public notice was issued for inviting suggestions/objections and the Order dated 29.10.2018 was issued.

3.18. The provisions of the SKY Scheme are as under:

(a) The farmer willing to join the Scheme has to pay 5% upfront contribution for the solar plant to be installed.

(b) 30% capital subsidy for the solar plant to be installed from the Central Government. (Subsequently it is paid by GoG).

(c) EBI-(Evacuation based incentive) - The state government will provide a subsidy of up to 30% as EBI for which the state government will offer a loan and the repayment of this loan will be made by the farmers through the sale of surplus electricity at a rate of Rs. 3.50 per unit (up to 1000 units per KW per year).

(d) On behalf of farmers for remaining 35% amount, the state government will take loan at a reduced interest rate, and the repayment of this loan will be made by selling surplus electricity to the electricity distribution company at a rate of Rs. 3.50 per unit.

(e) The loan repayment period is considered for approximate 7 Years. After repayment of loan, SKY consumers will get extra income from the sale of surplus electricity to DISCOM at a rate of Rs 3.50 / Unit, up to remaining agreement period.

(f) Solar plant's ownership will be vested to farmers after repayment of loan.

3.19. It is submitted that M/s Sahaj Solar Pvt. Limited was appointed vide Order dated 11.07.2019 for design, supply, installation, testing & comprehensive maintenance for grid connected solar PV Plants to 81 number of Agricultural consumers of Trambovad feeders.

3.20. It is submitted that the scheme has been implemented as per the Policy and circulars issued in this regard read with the Order dated 29.10.2018. It is denied that there were any exaggerated assurance or benefits or unfulfilled promises or any failure of MGVCL. The allegations made in the Petition against MGVCL are wrong and denied.

3.21. It is denied that there is any non-compliance of the Order. In fact, the Order only reiterates adoption of the scheme with only change in regard to the tariff for net drawal by consumer. This has been implemented by DISCOMS. There is no other direction in the said Order which can be claimed to be not complied with.

3.22. It is submitted that the Petitioner is referring to Daily Order dated 14.09.2018 and the reference is also made to the clarification vide Letter dated 13.08.2018 as well as referred to submissions made by Petitioners. The scheme as finally implemented was different in terms of the final Order dated 29.10.2018 with regard to the tariff for net drawal. The tariff to be considered for net drawal under the scheme as proposed was Rs. 3.50 per unit in which context it was considered that fixed charges may not be applied. However, this aspect was not accepted in the final Order. The relevant part of the Order dated 29.10.2018 provided as under:

> *"(5) After receiving the above details, the Commission shall take a final view on the proposal of the petitioner to charge a tariff of Rs. 3.50/Unit for net energy consumed by the farmers, in order*

to protect the interest of farmers. Till such time the Commission decides, the licensee shall charge the regular tariff as applicable to relevant category."

3.23. It is submitted that the Respondent MGVCL has considered the regular tariff as applicable to the category of consumers which includes the fixed charges. The Commission had not decided that the licensee shall charge regular tariff less the fixed charges. The Petitioner cannot pick and choose the convenient tariff elements. The Commission has not accepted the provision in the Government scheme in regard to the tariff for net energy consumed by the farmers. Therefore, reliance on the Government circular on this aspect by the Petitioner is misplaced.

3.24. It is submitted that GUVNL in its Circular dated 15.10.2019 had also provided for fixed charges as per GERC Tariff which is at Annexure B of the Petition. The fixed charges are as per the Tariff fixed by the Commission. There is no encroachment of power of the Commission. The circulars issued by GUVNL do not override the orders/Regulations of the Commission and only for implementation of the same and to ensure uniform action by all State owned distribution companies. Further, in the present case, as admitted by the Petitioner itself in Para 1(c) of the Petition, GUVNL is the implementing agency for the SKY Scheme and was empowered for framing Rules/Regulations. As can be seen from the circular dated 15.10.2019, it is in nature of the implementation of the Scheme. In particular, in the present case of SKY scheme, there are issues of implementation and therefore issuance of circular is to ensure uniform implementation by all licensees. This is particularly when it is a pilot scheme and therefore issues would arise on various aspects for implementation. The Petitioner, cannot on one hand claim that

GUVNL is the implementing agency under the Scheme and then claim that GUVNL has no authority.

3.25. It is submitted that the circulars are issued for the purpose of convenience of implementation and so long as they are in compliance and consistent with the Regulations/Orders of the Commission, there is no issue. Such circulars are issued by licensees (not only in Gujarat but other states also) for clear guidelines to be followed by all divisions of the licensees including field officers etc. The circulars are instructions to the divisions/officers of licensees to follow certain guidelines which are based on Orders/Regulations/Policies. The circulars are based on understanding of the licensees/Discoms of the Orders/Policies/Regulations. If the same is held to be contrary to the Orders/Policies/Regulations, then the same are modified. However, this does not mean that the circulars should not be issued at all. The Petitioner is making unwarranted allegations against DISCOMs.

3.26. It is submitted that the Commission has also not stated in the Order in Petition No. 1701 that there cannot be any issuance of circulars but has only sought for any specific instance to be brought to notice of the Commission. Such issue would not arise for the SKY Scheme which is a pilot scheme. There is no violation of any instruction of the Commission or disobedience of any clarification. The fixed charges is already approved by the Commission as part of retail supply tariff in the tariff orders and further the consideration of tariff for net drawal by farmers is also directed by the Commission in Order dated 29.10.2018.

3.27. It is submitted that the Petitioner has claimed that the project cost for individual differs from presentation and execution. It is submitted that the actual project cost is taken as per circular dated

24.07.2018 'પરિશિષ્ટ-ધ. It is submitted that the initial presentation was given by EPD to give a brief of the SKY scheme and the calculation were shown to the farmers with remarks - અંદાજીત આંકડાકીય માહિતી (Approximate statistical data).

3.28. It is submitted that the project cost in circular are lesser than the presentation as in the PPT the project cost was directly multiplied with 1.25 time HP as the SPV plant was to be installed at 1.25 times of HP while in circular it is based on Minimum AC/DC Capacity. E.g.,

Project Cost as per PPT	Project Cost as per Circular (Pg12)	Payment of 5% Upfront amount as per PPT	Payment of 5% Upfront amount as per Circular
10 HP Pump/12.5 KW SPV System Cost	10 HP Pump (12 KW AC Capacity and 13.2 KW DC Capacity)	10 HP Pump/12.5 KW SPV System Cost	10 HP Pump(12 KW AC Capacity and 13.2 KW DC Capacity)
= 12.5 x 50295 = 628688 Rs	= 12 x 50295 = 603540 Rs	=628688*5% = Rs 31434	=603540*5% = 30177

3.29. It is submitted that in fact the rate of SPV per KW is the same i.e. Rs. 50295. The difference is only due to the consideration of 1.25 times multiplication factor with respect to load in HP in PPT for ease of understanding for farmers and in case of Circular the rate of SPV per KW was directly multiplied by Minimum AC Capacity in KW. However, in the presentation, it is mentioned that it is approximate statistical data.

3.30. It submitted that the circular dated 24.07.2018 was known to all and placed before the Commission and therefore, the farmers were aware of the same. Further the scheme itself has provided that the farmer would be allowed to set up solar PV panels of 1.25 KW per HP of contracted load. The farmer cannot now raise any issue on the above capacity. It was the Petitioner's choice to agree to set up this

capacity. Further, it is denied that the excess capacity is fed into the system at negligible rate. The farmers are getting a rate of Rs. 3.50 per unit for the surplus power which would be income to the farmer after the loan repayment and the loan repayment is otherwise subsidised by the Government.

3.31. It is submitted that the subsidy is only 30% and the loan component was 65%.It is submitted that the loan amount shown in presentation is also 65% of approximate total cost amount shown in presentation. In the Presentation by EPD dated 27.06.2018 "Approximate Loan amount is shown in table at pg. no. 58 & 59" and it can be clearly seen that the loan amount is 65% of the total cost.

3.32. The installment of loan amount is taken as mentioned in Power Purchase Agreement at Point 5.

સદર યોજના અંતર્ગત ગ્રાહકે પોતાના ખેતર માં સ્કાય યોજના હેઠળ સોલાર પીવી પ્લાન્ટ સ્થાપિત કરવા સોલાર પીવી સિસ્ટમ ની લાગુ પડતી ક્ષમતા મુજબ સ્થાપિત કરવાના કુલ ખર્ચ ના ૫ %રકમ પ્રથમ તબકકે ભરવાની રહેશે જ્યારે બાકીની રકમની વ્યવસ્થા કેન્દ્ર સરકારની સબસિડી /રાજ્ય સરકારની EBI (Evacuation Based Incentive)/ખેડૂતવતી રાજ્ય સરકાર દ્વારા નાબાર્ડ (NABARD) કે બીજી કોઈ નાણાકીય સંસ્થા પાસેથી લોન દ્વારા નીચે મુજબ કરવામાં આવશે .

a) કેપિટલ સબસિડી રૂપે ૩૦ % રકમ કેન્દ્ર સરકારના નવી અને નવીકરનીય ઉર્જા મંત્રાલય (Ministry of New and Renewable Energy-MNRE) તરકથી મેળવ વામાં આવશે .

b) Evacuation Based Incentive (EBI) રાજ્ય સરકારના ૩૦ %ફાળા પેટે ગણવામાં આવશે અને તે ધિરાણકર્તાસંસ્થા / નાબાર્ડને લોન હપ્તા પેટે ચૂકવવામાં આવશે.

c) બાકીના ૩૫% રકમ માટે ખેડૂતવતી રાજ્ય સરકાર દ્વારા લોન લેવામાં આવશે અને તે ધિરાણકર્તા સંસ્થા / નાબાર્ડ ને લોન હપ્તા પેટે ચૂકવવામાં આવશે.

d) ઉપરોક્ત (b)&(c)ની એકત્રિત રકમ લોન રૂપે ગણાશે.

3.33. The fact that the loan component is 65% and the farmers were required to pay to meet the loan repayment in case the surplus power injected into the grid is not sufficient to meet such loan repayment is clear from the following:

1. GUVNL Circular dated 24.07.2018

Loan calculation: -"PPA - Power Purchase Agreement Cl 5" & Cl., no 16 (For disconnection of pump in case farmers not able to pay loan)

2. PPA - Power Purchase Agreement
Loan calculation "Cl no 5 Pg No, 2 &3"
Dis-connection:- PPA Clause no., VII

3.34. However, as per circular only pump connections are disconnected, the solar generation is fed into the grid as per circular to reduce the arrears and loan amount of the farmers.

3.35. It is submitted that the Petitioner has alleged issues with CUF and claimed that CUF has not reached the assured CUF as per the GUVNL

Circular and agreements. The Petitioner has not considered that there would be degradation and therefore CUF would fall. The allegation made against MGVCL in this regard, is unwarranted.

3.36. It is submitted that in case there is any consideration or decision on the role of the agency and role of farmers, it would be necessary for the agency to be impleaded. There cannot be any decision on role of agency and directions for imposition of penalty without making agency a party to the present Petition. In case, there is any issue on CUF, role of agency, division of responsibility between the agency and farmers and consideration of penalty, the agency is an affected party. The Yearly % CUF of 11 KV Trambovad feeder is as under:-

Year	Solar Generation	% CUF	Days
2019-2020	334055	19.71	49
2020-2021	2083404	16.50	365
2021- 2022	1774774	14.06	365
20222- 2023	1795786	14.23	365

3.37. The data given by the Petitioner is not admitted. It is also relevant that no issue was raised by the farmers for the past four years. The issue is raised by farmers only after disconnection of pump connections due to raise in arrears as per circular dated 24.07.2018 cl no 16 during last year.

3.38. As per site visit reports of Executive Engineer Petlad and sub-division, it was found that the main reason of low CUF is due to dusty layers on panels i.e., negligence of cleaning of panels, shadow of trees on panels and in case of damage panel or SPV System, weather conditions etc. The consumers are repeatedly informed regarding cleanliness of panel and to remove shadow of tree or other shadow. Maintaining of CUF is not only in scope of the agency but also prime duty of consumer to keep the system clean for better performance.

3.39. In this regard, the relevant clause of the agreement are extracted as under:-

TPA Cl., no.,

(Pg 3) c :- ગ્રાહક / ખેડૂત (પ્રથમ પક્ષકાર) ના હક્ક, કાર્યો અને જવાબદારી :-

સોલર સિસ્ટમના ઉપકરણોની સાચવણી માટેની જવાબદારી ગ્રાહકની રહશે.

3.40. In case of delay in starting the SPV Plant beyond 48 Hours, notice is issued to the agency as per AT Clause 40 d and for any delay beyond 48 hrs penalty is recovered as per AT Clause 40 d. Penalty amount of Rs 2.666 lakhs for 68 Nos of instances were identified as SPV system non-working for 4>8 Hrs out of which 1.658 lakhs has been recovered and credited to farmers bill during September 2023 while remaining amount is under process and will be credited to consumer account on finalization as per AT terms and conditions. The Petitioner is, therefore, incorrect that there is no compensation made to any consumer.

3.41. These penalties are calculated as the agency has not rectified the SPV Plant as per AT Cl., 40 d. The AT Clause no., 14 c - (Generation Guarantee) and 40 d - (Penalty on part of delay occurs in resolving complaint/defect/loss of Solar generation), are two clause's where the penalty can be done to the Empanel agency and it is mentioned in the clause no., 14 c that the penalty for loss in generation shall not be duplicated with the penalty for delay in rectification of fault beyond 48 hours of complaint:

> *"……5. It is clarified that the penalty for loss in generation shall not be duplicated with the penalty for delay in rectification of fault beyond 48 hours of complaint….."*

3.42. Therefore, there cannot be any penalty for the loss in generation when there is already recovery of penalty for the rectification of fault beyond 48 hours of complaint.

3.43. It is submitted that the Petitioner has alleged that no reports of cost and benefit had been submitted. However, it is noted in CGRF Order that the same was submitted on 02.08.2022. The Order dated 29.10.2018 passed by the Commission provided for submission of certain details to the Commission. Accordingly, the Respondent MGVCL has submitted the details on 02.08.2022. There was no direction to supply or make available the same to the farmers/consumers or publish on the website. There has been no enquiry raised by the Commission on any lack of submission by licensee or lack of analysis. If there is any further information sought by the Commission, the same can be provided. Even otherwise, without prejudice to the above contention that there was no requirement to make available the same to the farmers, it is submitted that the analysis for Trambovad feeder is as under:

Year	Total Solar Generation (SKY Farmers Only)	Total Pump Consumption- (SKY Farmers only)	% CUF	% T&D	% Consumption w.r.t Generation	No., of Farmers on payable side	No., of Farmers on recoverable side
2019-20	334055	95286	19.71	5.95	28.52%	67	14
2020-21	2083404	805932	16.50	4.91	38.68%	44	37
2021-22	1774774	750452	14.06	5.41	42.28%	19	62
2022-23	1798786	658022	14.23	4.73	36.64%	31	50

3.44. From the above, it is seen that as the consumption of the farmer increases, there is increase in number of farmers from whom the recovery is to be done. Also as per the site visit done the CUF is not maintained due to reasons already mentioned above. The contentions of the Petitioner are denied. It is further submitted that Trambovad Feeder SKY Consumer arrears as on 31.3.2023 is Rs. 45.74 Lakhs.

3.45. The Petitioner has raised an issue in regard to interchange of the consumption and generation. It is submitted that as far as the quantity of consumption and generation meter were interchanged, the same had happened only while printing of energy bills which were served to the consumers. All the charges related calculations were at par and in line with the financial settlement calculation logics. All the bills served were calculated correctly and merely the printing of quantity of consumption and generation was interchanged. Further, printing errors were corrected in subsequent financial years. The calculation of all the bills in a statement was given to the farmers as per CGRF Order which showed all the readings of meters, loan instalments, EBI, etc. The detailed statement is distributed to the Respondent as discussed during the CGRF and given to the Petitioner vide letter No. 4468 dated 30.09.2023. It is not clear why the Petitioner is raising the issue at this stage which already stood resolved.

3.46. It is submitted that the Respondent MGVCL monitors the data from SEDM portal on daily basis and the penalty is calculated for non-working SPV Plants based on the data received from SEDM portal as per AT terms and conditions. However, if any consumer complaints regarding the non-working of system to the sub division office, then also action are taken as per AT Terms and conditions. The allegation against MGVCL on monitoring the performance is, therefore, misconceived.

3.47. In regard to the billing cycle, it is submitted that the bimonthly billing as per the circular is being done. There were some technical software issues in the beginning, the bimonthly billing was not being done though there is a mobile app which could be used to monitor the generation, pump consumption and import export data on daily,

monthly and yearly basis. Therefore, the farmers had access to the necessary information for any monitoring. In any case, the billing is now done on bimonthly basis and therefore there is no issue on this aspect.

3.48. The allegations of the Petitioner against the Respondent are wrong and denied. The Petitioner is raising various issues which are not relevant. The CGRF has already observed the following:

> *"....5.3 Amount of Evacuation Based Incentive (EBI) and amount payable against the surplus power, the power purchase cost, the recovery of subsidy is levied as per SKY circular approved by GUVNL. The installment of loan amount and is recovery is done as per policy and circular of SKY Scheme..."*

Therefore, the Petitioner cannot raise any issue on loan instalment and other aspects decided by CGRF before the Commission. It is submitted that the loan being 65% and the requirement of repayment of loan was already specified and no issue can be raised in the present petition in this regard.

3.49. The comments of MGVCL on the submissions of the Petitioner are as under:

1. *In first FY 2019-20, the bills served by about 3 months delay. For period of 49 days generation. Loss of Interest on creditable amount has not been accounted because 3 months delay.*

   Response: The yearly bills are prepared after considering the online reading's available in portal on 1st April of every year and are processed after taking into consideration various

parameters like offline sites, T&D Loss on feeders, Faulty Meter adjustments etc as per norms of the scheme.

2. *For 49 days period, the first instalment is charged full for the entire year in most of the consumers resulting into unrest against working of respondent.*

   Response: During final bill settlement FY 2019-20, the first instalment is calculated for 49 days only (i.e. from the date of commissioning 12.02.2020 to 31.03.2020) and accordingly the final bill amount was derived. Annual final bill was calculated as per the guidelines of the PPA and GUVNL circulars and its sub sequential amendments and accordingly final bill amount derived were in order. Further, detailed instalment calculation sheet has been already provided by Sojitra sub division vide letter no. 4468 dated 30.9.2023 (annexed above).

3. *Bimonthly billing is not followed resulting into unawareness of respondent of deteriorated CUF from beginning*

   Response: The bimonthly bills are presently served to the sky consumers on Trambovad feeder and for regular monitoring of CUF SKY mobile application is also provided to all the SKY farmers.

4. *Generation and consumption data were interchanged came to knowledge of respondent at time of serving 3rd financial year Annual bill.*

   Response: Already responded to hereinabove.

5. *The 5% upfront registration charges of project cost were recovered and remaining loan amount was to be bifurcated in first instalment for the period of date of commissioning*

i.e. from 12 February 2019 to 31st March 2020 and subsequent yearly installment. The installment amount is not as per criteria of equal loan installments for the given period and rate of interest.

Response: The detailed instalment calculation sheet has been provided. It is submitted that the same is consistent with the scheme. The Petitioner has not pointed out any specific error in the calculation.

6. *The respondent is not sure and confident instalment amount till 30/3/2023 and it was revise in bill of about 31/3/2023.*

   Response: The Petitioner is unnecessarily raising issues when there is a revision of bill. The instalment amount calculated at the time of yearly final settlement are in order and in line with the guidelines of the PPA and GUVNL circulars and its sub sequential amendments. Due to system error the instalment amount printed on energy bills were not correct. However, the final bill amount provided in energy bills are as per the guidelines of the SKY scheme after considering actual instalment amounts. Moreover, year wise Actual instalment calculation sheet has been already provided to the petitioner vide letter no. 4468 Dt 30.09.2023. The Petitioner is not raising any issue on the above letter and the calculation therein but is raising issues on other aspects. When the aspects already stand rectified and final calculations provided, there is no basis to raise any issue on the older amounts.

7. *The solar panel were to be installed of 1.25 KW 1 HP of contract demand, i.e. about 60% more meet his consumption and was rounded down. If plant would have than his*

requirement to been considered without rounding then all extra generation would have make direct earning for easy payment of instalment.

Response: The solar panels and it's SPV Capacities were installed as per circular no., 1748 Dt 24.7.2018 which was available and known to all and it is provided for rounding to the nearest inverter capacity (Clause _6 at Page 9). The farmers and consumers were well aware of the same.

3.50. It is also submitted that the farmers did not raise any issue at the relevant time nor sought for higher capacity or approached the Commission or the Government of Gujarat in this regard. At this stage, it is raising issues. Further, there is a contradiction in the stand of the Petitioner. On the one hand, the Petitioner states that the SPV plant is oversized and on other hand, it is raising an issue that it should have had higher capacity. Higher capacity will also raise the cost of project, loan amount and 5% upfront amount which cannot be changed after implementation of project. The calculations made by the Petitioner are not admitted.

3.51. It is denied that the agreements were not provided or that blank agreements were signed. Such allegations are unwarranted. SKY scheme agreements are obviously different from the standard agreements of DISCOMS with consumers. The agreements were provided to the farmers under the SKY scheme and copy given to farmers. Further, in terms of Section 6(2), the information booklet was provided with all details to all participating farmers. It is submitted that the agreement is fair and reasonable and consistent with the scheme. In any case, once the agreement is signed, the Petitioner cannot raise any issue on the terms. The Petitioner (or farmers constituting the committee) did not raise any issue of the

agreement at the time of participating in the scheme. Such issues are afterthoughts.

3.52. Further, in regard to ownership of property, the same would be as per the norms of the Scheme and as per Tri Party Agreement. The Petitioner has sought to raise issues and conditions on the solar plant and transfer of ownership which are not provided in the agreement. The Petitioner cannot raise such issues on handover of plant and termination of agreement which is not there in the agreement.

3.53. It is denied that there is any discrimination. The Petitioner has made vague allegations. It is to inform that under SKY Scheme total 16 Nos of feeders are commissioned till date and 772 Nos of farmers have participated. The scheme is implemented uniformly as per guidelines of GUVNL circulars, TPA and PPA done with agency and participating farmers.

3.54. With regard to prayers of the Petitioner, it is submitted as under:

(a) Bills have been revised as required and detailed statement on installment as discussed in CGRF already provided vide letter dated 30.09.2023.

(b) The duties of farmers/Agency and Discoms are clearly defined in tri-party agreement clause and regarding shortfall in CUF and delay claim it is already narrated herein above.

(c) There cannot be any bar against disconnection when there are arrears pending. The arrears on Trambovad SKY Feeder Rs 45.74 Lakhs and the connections were disconnected as per circular no. 1748 dated 24.7.2018 point no. 16. This was known to all participants.

(d) There is no recovery on higher side and therefore no question of any refund. The recovery made and loan amount calculated are in line with the scheme and circular there under. The

Petitioner has made a bare allegation without any justification of any higher recovery. There is no revised instalment amount. The detailed amount have already been provided vide Letter dated 30.09.2023.

(e) With regard to Cost benefit analysis, the details of schemes are already submitted to the Commission as mentioned above.

(f) With regard to prayer 8, the Respondent MGVCL has made detailed submissions on the current scenario.

4. The Petitioner vide affidavit dated 17.01.2024 filed its rejoinder reply to the reply of the Respondent and the contents of the same in verbatim, are reproduced as under:

"……

Preamble:

In fact, for agricultural consumers the various tariff is in existence as under:

"…… For Madhya Gujarat Vij Company Limited (MGVCL)
Case No. 2167 of 2022 31st March 2023
ANNEXURE: TARIFF SCHEDULE
TARIFF FOR SUPPLY OF ELECTRICITY AT LOW TENSION, HIGH TENSION, AND EXTRA HIGH TENSION
Effective from 1st April 2023

8. RATE: LTP-LIFT IRRIGATION

Applicable for supply of electricity to Low Tension Agricultural consumers contracting load up to 125 HP requiring continuous (twenty-four hours) power supply for lifting water from surface water sources such as canal, river, & dam and supplying water directly to the fields of farmers for agricultural irrigation only.

(a) Fixed charges per month *Rs. 20/- per HP*

PLUS

(b) Energy charges per month;	*For entire consumption during the Month 80 Paise per Unit*

10. RATE: AG

This Tariff is applicable to services used for irrigation purposes only excluding installations covered under LTP- Lift Irrigation category.

***10.1** The rates for following group are as under:*

***10.1.1** HP BASED TARIFF:*

For entire contracted load	*Rs. 200 per HP per month*

ALTERNATIVELY

10.1.2 METERED TARIFF

Fixed Charges	*Rs. 20 per HP per month*
Energy Charges:	*For entire consumption during the month 60 Paise per Unit*

10.1.3 TATKAL SCHEME

Fixed Charges	*Rs. 20 per HP per month*
Energy Charges:	*For entire consumption during the month 80 Paise per Unit*

17. RATE- HTP-V

HT - Agricultural (for HT Lift Irrigation scheme only)

This Tariff shall be applicable for supply of electricity to High Tension Agricultural consumers contracting for 100 kVA and above, requiring power supply for lifting water from surface water sources such as canal, river and dam, and supplying water directly to the fields of farmers for agricultural irrigation only.

17.1 DEMAND CHARGES:

Demand Charges *Rs. 25 per kVA per month*

PLUS

17.2 ENERGY CHARGES:

For all units consumed during the month *80 Paise/Unit*

Over and above the new category of agricultural consumers under SKY scheme are to be billed as per GR Dated 27/06/2018 and its amendments dated 13/8/2018 of SKY Scheme, with fixed charge rate Nil. The petition 1729 of 2018 was filed for the consumption charges, if met from Respondent's system. The charges to be levied at rate of 3.50/ Unit, and same was denied and to decide same after observing various parameters as mentioned in para 6(4) of the order of the petition.

Section 86(1)(a) empowers the Hon. Commission to determine tariff and SKY Scheme being Pilot project it was rightly ordered in 1729/2018 as said above.

Here it is clearly violation of GR and order of the Hon. Commission, (i) by levying fixed charges, (ii) not carried out billing as per billing cycle, (iii) the annual bills served with wrong contract demand, wrong amount of first installment of loan etc. for consecutive 4 bills for FY 2019-20, FY 2020-21, FY 2021-22. Only last bills of FY 2022-23 were correct in most of the consumers. As per order the petitioner represented before CGRF-MGVCL. The CGRF Authority was not sure about authentic records and rehearing was made after submission of details by Petitioner. Para 6 of the order of CGRF is sufficient to say that as on today matter of fixed charges is under clarification stage.

It is to appeal to the Hon. Commission that the no breach is made by respondents in order made in the petitions 1729/2018 and requested to admit the present petition No. 2278/2023.

<u>Maintainability of Petition</u> Para 1 to 10

*Petitioners denies the arguments made against admissibility of the petition in **Para 1 to 10** of the response and are irrelevant to this petition, however part and portion of the sections of regulation /act are in order and requested to consider the preamble for admitting the petition.*

Para 11 and 12, 14,17

As per order in Petition 1729/2018, the petitioner represented before CGRF MGVCL. The CGRF Authority was not sure with authentic records and rehearing was made after submission of details by Petitioner. Para 6 of the order of CGRF is sufficient to say that as on today matter of fixed charges is under clarification stage, and there is no use to go before ombudsman, as breach is made by respondents in order made in the petitions1729/2018.

Para 13

CGRF MGVCL vide its order dated 13/9/2023 had issued various directives to respondent. This is clear indications that there were lapses in implementations of GR and in compliance of order in petition 1729/2018. The Hon. Commission is requested to pass an order for compensation for the losses suffered on account of lapses of respondent. The respondent MGVCL is owner for first seven years period with zero investment has to maintain the plant in a such a way that at time of handing over it is in healthy and sound condition to perform remaining 18 years efficiently.

Para 15

Petitioner do not agree with the arguments. If the CGRF would have resolved the issue in light of facts, the need to file petition would not have been arised.

Para 16, 18

Petitioner do not agree with the arguments, as stated in above Para for Maintainability of Petition.

The violations are made by respondent No. 1 and 2 and others DISCOMs are already set free, and no Suo motu actions are initiated as an exemplary basis as learnt from records. e.g. Navarang Color Lab of Una under PGVCL Petition No. 1274/2013 dated 6/8/2013. The outcome of Suo motu notice under section 142 is as standstill as far as our knowledge. It is requested the Hon. Commission to publicize such orders specifically so that licensees may refrain themselves from any violation.

Para 19,20

The SKY Scheme GR dated 27/6/2018 is available in public domain but respondent is silent on clarification dated 13/8/2018 in G R. of SKY Scheme, which was brought to notice of Hon. Commission by petitioners and Co petitioner of petition No. 1729/2018.

Para 21

The share of 30% subsidy of Central Govt. is a part of Capital expenditure and is directly made available for solar plant, while 30%

subsidy of State Govt. is a part of Capital expenditure is met from loan taken by State Govt. is to be repaid in 7 installments on yearly basis. The amount installment of 30% Govt. loan is met from the amount of EBI (Evacuation based Incentive) with limit of 1000 unit per KW per year of solar plant generation in excess of self consumption. Due to inefficient working of Solar plant, generation is so poor/ low during ownership period of respondent, that the amount of EBI is not enough to meet with installment amount of Govt loan. The recovery is charged for shortfall amount of installment in numbers of consumers of Govt loan which in place of subsidy. Thus, criteria and meaning of subsidy has lost its virtue by recovery.,

The ownership of consumer begins only after payments installment of 35% own loan and 30% of state Govt loan in 7 years from date of commissioning. Hence it is the duty of the Present owner i.e. The respondent No. 1 to maintain the plant in a such a way that at time of handing over it is in healthy and sound condition to perform remaining 18 years efficiently.

Para 22

The main LOA for SKY Agencies was placed by PGVCL vide NO. PGVCL/R&C/ DSMCELL/SKY/5739 dated 23/7/2018. Here the question arises at which period the tender specifications were finalized, tenderized, and finalized after negotiation etc., when the normal regular tender takes more than months together after initiating the note of procurement. The order for individual feeder was issued in 2019 and same was placed for Trambovad feeder on 11/7/2019.

The agreement with consumer was made on 29/11/2019. On this date the rate of Solar Plant per KW was reduced by about 20% which is as under:

GUVNL/Tech/Solar Cell/SKY/1748 Dated 24/7/2018						
Capacity	***5 kW***	***> 5-9 kW***	***>9-20 kW***	***>20-50 kW***	***>50-100 kW***	***>100-150 W***
Rate in Rs/kW	*52091*	*51975*	*50295*	*45149*	*41999*	*41474*

GUVNL/Tech/Solar Cell/Surya Gujarat/ 1762 Dated 9/9/2019					
	5 kW	***10 kW***	***25 kW***	***50 kW***	***100 W***
	45030	***43005***	***38006***	***37505***	***36002***
Diff	***7061***	***8970***	***12289***	***7644***	***5997***
% Rise	***15.68***	***20.86***	***32.33***	***20.38***	***16.66***

Thus @ 20% more rates are charged to agricultural consumers.

Para 23 Para 24

Petitioner do not agree with the arguments of respondents. Respondent fails to adhere to the assurance given at time of canvassing and as mentioned in GR. Though on line monitoring made by DSM Cell of respondent, no notice was made towards the deterioration of performance. It was duty of owner to monitor the generation for identical size of nearby plant. The generation would have been compared to avoid loss of generation by suitable immediate action for rectification as this facility is availed with respondent and not with petitioner.

Even as per order made in Petition 1729/2018, the feedback report contains only statistical progress report but not the cost benefit analysis. If it could have been made, benefit/ losses to consumer, respondent and state could have been shown in reports.

Para 25

Petitioner do not agree with the contention of respondents. As Per GR and order made in Petition 1729/2018 Fixed charges are levied. According to earlier CPP Policy of 1998 State the CPP consumer was permitted reduced his contract demand. (Part of erstwhile GE Board Com. Circular No.687 Dated 21/12/1998 is attached herewith) Here in case of SKY Scheme all are CPP Consumers and, as such to encourage the consumers Fixed charges were exempted by Govt also, even than the respondent No.2-GM(F): instructed all; field offices to recover fixed charges. Respondent did not approach to Hon. Commission for clarification before issuing the circular. Respondent No.2 is Nodal Agency for SKY. but has no powers to governs the Discoms function.

Para 26

Petitioner do not agree with the contention of respondents. As per order made in Petition 1729/2018 there is no reference of withdrawal of clarification made in GR dated 13/8/2018 and was overlooked by respondent No.2. In fact, the clarification issued in GR dated 13/8/2018 was brought to notice of Hon. Commission by the petitioners of Petition 1729/2018. This was also known to respondent No.2 also. The petition was made for charging the drawl / import of energy from system over and above own generation of Solar Power Plant at Rate Rs 3.50/ Unit., but same was not allowed in order by Hon. Commission, and it is said that it will be decided later on basis of results and performance of pilot project.

Para 27,28,29

Petitioner do not agree with the arguments of respondents. Before issue of circular the respondent No.2 would have challenged the Government. The SKY Scheme is applicable as per its original GR dated 27/6/2018 and its amendments/ clarifications etc. made

thereafter. It is reported by respondent that circular was issued to levy fixed charges as per tariff order, however same is existing since first tariff order by GERC and is prevailing as on today as per current rate. The agricultural consumer opting for SKY Scheme are exempted from fixed charge as an incentive by the Govt so as to popularize the scheme to get relief from subsidy against tariff, FPPPA charges and loss reduction, as source of supply (Solar generation) itself is place of utilization i.e. no utilization of existing system network of Generation to transmission to distribution for import of power. (Exception if solar Generation is less than consumption). The feedback report is missing in the aspects of relief from subsidy against tariff, FPPPA charges and loss reduction etc.

Para 30

The Circulars which are quoted in petition had the severe effect on billing and financial impacts on consumers. They are as under:

a) *The Circular with respect to section 4.95 of the supply Code of Dated 1/4/2016 of MGVCL and Dated 8/8/2016 of DGVCL for implementing HT tariff to LTMD consumers exceeding 100 KW of limit was turned down by Ombudsman and ordered to refund in number of cases, (Financial Impact on Consumers)*

b) *The option for LTMD was available to NRGP consumers was in tariff since 1-9-2011, but same was in the item of LTMD tariff and lacs of consumers were booked under section 127 of EA 2003. The option appeared in NRGP part after 7 years in Tariff order 2018, after continue follow-up at time tariff orders (Financial Impact on Consumers)*

c) *The circular for applicability of LTMD tariff having more than 40 KW dated 25/2/2013 had impacted the revenue by way of supplementary bills raising revenue at Rs 33.91/ unit for LTMD category, against average Revenue of Rs 4.50/ Unit can be seen in tariff order for LTMD category is as under:*

Tariff Order: Truing up for FY 2011-12 and Determination of Tariff for FY 2013-14 For Madhya Gujarat Vij Company Limited

Case No. 1285 of 2013 16th April 2013

Madhya Gujarat Vij Company Limited
Truing up for FY 2011-12 and
Determination of Tariff for FY 2013-14

4.6 Revenue from sale of power

The MGVCL has furnished the total revenue at Rs. 3374.83 Crore in the truing up for FY 2011-12 as against Rs. 3316.92 Crore considered in the MYT order for FY 2011- 12 as detailed in the table below:

Table 4.46: Revenue submitted in the truing up for FY 2011-12

(Rs. Crore)

Sl. No.	Particulars	Approved for FY 2011-12 in MYT order	Claimed in truing up for FY 2011-12
1	Revenue from sale of power	3181.92	3237.72
2	Other income (Consumer related)	59.00	63.83
3	Total revenue excluding subsidy (1+2)	3240.92	3301.55
4	Agriculture subsidy	76.00	73.28
5	Other subsidy	-	-
6	Total revenue including subsidy (3+4+5)	3316.92	3374.83

The category wise sales revenue for FY 2011-12 is given in the table below:

Table 4.47: Category-wise sales and revenue for FY 2011-12

(Rs. Crore)

Sl. No	Particulars	FY 2011-12 Actuals	
		Sales MU	Revenue Rs. Crore
A	LT Consumers		
1	Domestic	1719.00	715.54
2	Commercial/GLP	48.48	164.40
3	Industrial LT/LTMD/NRGP	1080.94	498.61
4	Public Water Works	166.64	62.16
5	Agriculture (Metered)	925.17	175.73
6	Agriculture (Unmetered)		
7	Public Lighting	60.49	27.19
	LT Total A	4000.71	1643.64
B	HT Consumers		
1	Industrial HT	2448.66	1375.28
2	Railway	375.82	218.00
	Total B	2824.48	1594.08
	Grand Total (A + B)	6825.19	3237.72

Commission's Analysis

The Commission has verified the total revenue for FY 2011-12 from the audited accounts. The actual revenue from category-wise sales as per audited accounts is Rs. 3237.72 Crore. The revenue shown by the licensee from sales of power to GUVNL is Rs. 354.23 Crore and UI charges receivable is Rs. 102.98 Crore for FY

Sl. No	Particulars	FY 2011-12 Actuals		Derived
		Sales MU	Revenue Rs. Crore	Av. Rate Rs/ kWh
A	LT Consumers			
1	Domestic	1719.00	715.54	4.16
2	Commercial/GLP	48.48	164.40	**33.91**
3	Industrial LT/LTMD/NRGP	1080.94	498.61	4.61
4	Public Water Works	166.64	62.16	3.73
5	Agriculture (Metered)	925.17	F175.73	
6	Agriculture (Unmetered)			
7	Public Lighting	60.49	27.19	4.49
	LT Total A	**4000.71**	**1643.64**	**4.11**
B	HT Consumers			
1	Industrial HT	2448.66	1375.28	5.62

2	*Railway*	*375.82*	*218.00*	*5.82*
	Total B	*2824.48*	*1594.08*	*5.64*
	Grand Total (A + B)	*6825.19*	***3237.72***	*4.74*

Table 4.47: Category-wise sales and revenue for FY 2011-12

Average Rate (1643.64 + 3237.73) x 10 ÷ (4000.71+6825.19) = 4.50/ Unit

d) Truing up for FY 2016-17 and Determination of Tariff for FY 2018-19

For Madhya Gujarat Vij Company Limited (MGVCL)

Case No. 1701/2018 31st March 2018

3. Brief outline of objections raised in response from MGVCL and the Commission's View

10. Non issuance of any circulars containing financial implications without prior approval of the Commission

The Objector has requested the Commission to direct the licensees not to issue any circular (which involves financial burden or financial benefit to any consumer) without getting the approval of Commission. Approval granted by the Commission or the power to issue the circular quoting the provisions of Act, Rules and Regulations should be disclosed in the circular. If any circular is issued which does not involve financial implications, DISCOM should give certificate on that circular confirming that no financial part is involved in this circular thus no permission is required from the Commission for this particular circular.

Response of DISCOMS -

Commission's view

Normally, activities of licensees having financial impact on its consumers are governed through various Regulations notified by the Consumers. Stakeholders may bring specific instances in this regard to the notice of the Commission.

On basis if such facts the commission had shown his view as above.

Para 32

Petitioner do not agree with the contention of respondents

Para 32, 33, 34

The Project cost is as per LOA 10/6/2019. When agreement made with consumer the cost per KW of solar plant was reduced at about 20% as mentioned in comments on Para 22 above.

Para 35, 36, 37

Exaggerated Size of Solar Plant

Contracted Load: 10 HP=@ 7.5 KW

Solar Plant for 10 HP = HP x 1.25 = 10 x 1.25 = 12.5 KW

but actual size = 12 KW i.e. Excess size of Solar Plant = 12.KW-7.5 KW = 4.5 KW i.e. 60% excess and such facts were kept hidden during canvassing.

*On one hand Agricultural consumers are asked to install the capacity of plant to about 1.25 times of his contract demand while the Industrial consumers were permitted to install the Solar plant of capacity of **1/2** (50%) of contract demand till 2021. (In New Solar Power policy restriction is removed)*

The generation on account of 60% excess capacity installed by Consumer participating in SKY scheme, facilitate respondent to avail power at almost lowest rate with zero investment over and above the benefit as mention in comments made against Para 50, and respondent meets its RPO at nil investment.

Para 38, 39

Subsidy

Petitioner do not agree with statement for 30% of subsidy only. The 2nd slide of power point presentation by Secretary E&PD is as under:

……

Thus 30% subsidy from Central Government and 30% from State Government. The State Government has not given the subsidy directly to participant of SKY Scheme but availed loan itself and its installments are met from EBI with limit of excess generation of SPV over self-consumption of 1000 unit/ Kw/year. Even after excess installed capacity, the generation is very poor due to inefficient plant, and consumers are forced to make the payment of shortfall of installment of 30% loan amount which is against subsidy. Consumer has to pay only 5% of total cost for plant installed at his farm as upfront charges and 35% of total cost for plant by availing loan, and as such his liabilities are limited for repayment of this loan only and not for state Govt loan. If at all any payment is to be made against State Govt loan how it can be termed as Subsidy

Para 40

The 65% loan of project cost. The bifurcation of 65% loan in two part. The Consumer loan is 35% only and remaining 30% id state Govt loan against declared subsidy.

Para 41, 42

Capacity Utilization Factor

For 10HP Contract Demand SPV Plant capacity = 10 x 1.25 = 12.5 KW as per GR and as per circular it should be 12 KW. With deterioration CUF of 1% per year the minimum generation is ought to be as under fie 12.5 kw and 12 kw. (For the FY 2019-20 only 48 days are considered) The Actual Generation for 29 No's of consumers having contract demand 10 HP with total capacity of 348 KW the generation period wise and CUF is as under

		Generation Ought to be		Actual generation
FY	CUF in %	12.5 KW	12 KW	348 KW
2019-20	20.5	2959	2840	78332
2020-21	18.3	20039	19236	510007
2021-22	18.12	19841	19047	405655
2022-23	17.94	19644	18859	430475
2023-24	17.76	19447	18669	

The same is the position in respect of remaining all consumers as under

Records of S/Dn.			**FY 2019-20**		**FY 2020-21**		**FY 2021-22**		**FY 2022-23**	
No. of Consumer	Contracted Load. HP	Total KW	Energy generated by SPV System as per Generation meter in KWH	CUF in % (Derived)	Energy generated by SPV System as per Generation meter in KWH	CUF in % (Derived)	Energy generated by SPV System as per Generation meter in KWH	CUF in % (Derived)	Energy generated by SPV System as per Generation meter in KWH	CUF in % (Derived)
12	7.5	108	22649	17.83	151550	16.02	136316	14.41	130145	13.76
29	10	348	78332	19.14	510007	16.73	405655	13.31	430475	14.12
1	12.5	15	3470	19.67	22252	16.93	19813	15.08	20460	15.57
15	15	270	64141	20.20	404047	17.08	355843	15.04	358938	15.18
11	20	275	65603	20.29	373790	15.52	317972	13.20	326457	13.55
6	25	180	44315	20.93	258497	16.39	235337	14.92	224584	14.24
7	30	245	55539	19.28	363261	16.93	303838	14.16	304727	14.20
81	TOTAL	1441	334048		2083404		1774774		179578 6	

It is suggested that implementing Agency is it be made party, but the implementing Agency is ordered by respondent No. 1 and Trambovad Feeder SKY committee was not given opportunity to choose agency like rooftop solar plant in respect of residential consumers

Para 43

The CUF Year wise is shown in table itself shows that within 3 years and /49 days it has reached from 19.71 to 14.23% = 5.48% reduction i.e.1.75% Per year. In fact, the deterioration in CUF and at time of handing over it may reach near to 10%, and it can be presumed that the plant will cease its generation within span of 10 years from date of commissioning.

The Deterioration of CUF will be as under with initial CUF 18.3 and 19.71

year wise

FY	*CUF*	*CUF*
2019-20	*18.30*	*19.71*
2020-21	*18.12*	*19.51*
2021-22	*17.94*	*19.32*
2022-23	*17.76*	*19.12*

Para 44

As respondent is saying that the data is not admissible, can respondent deny his own records? because all conclusion is made on data supplied by the respondent. If the cost benefit analysis is still not made even after 4 years, respondent could have come with analysis well before commission prior to filing the petition by Petitioner

Para 45

The reason given by respondent for low CUF is baseless. In project itself non availability of power and others reasons are considered and more

than 11% loss is considered in arriving CUF. Moreover, the what is the role of present owner to keep plant healthy and efficient? This is not mentioned by respondent.

Para 46

Th Agreement is to be made available to applicant along with application and same to be made available *on website which is not there on respondent website as on today, and it is violation of section 4.99 of supply code, The agreement is one sided agreement in favor of respondent and implementing agency, If it could have been made available for study, it could have been known to consumers, they would have restricted from registration stage.*

The Petitioner would like to draw the attention towards Notification dated 9/12/2023 "Electricity (Rights of Consumers) Second Amendment Rules, 2023. Government of India Ministry of Power, which will be notified by Govt. as amended rule after due completion of procedure. Same will be effective very soon According to Para 6 of the notification, the format of agreement should be made available on website before registration is made. The copy of notification is attached here with.

For the first time such type of bi party and tri party agreements are framed one sided and compelled consumers to sign the agreements who had registered for SKY Scheme.

So far as safety of plant, consumer may restrict unauthorized person and animal to avoid any damage to plant, they could have made, but when Panel is cracked and shattered no one can dare to clean it to avoid electrocution.

The latest Photographs of such inferior quality panels are attached herewith.

Para 47,48

The actions taken for compensation after the representation to CGRF and credit for the period Feb 2020 to March 2023 is given in September 2023. Being the owner of the plant for first 7 years, it is failure on part of respondent. The 90% availability power on feeder for day time is not observed with respect to availability of supply to tail end consumer after sustained fault. Availability of power at tail end can be ascertained by MRI of tail end consumer of feeder under SKY scheme. The power restored after sustained fault differs in respect of Substation and tail end consumer.

Para 49

At Para 43 respondent has confirmed that the inefficient plant by showing the deteriorated CUF beyond limit and this has resulted into low generation and less revenue to adjust with loan installment.

Para 50

Cost Benefit Analysis

It was merely the Progress report for the No. of connections covered in SKY Scheme as a whole for Gujarat or for respondent No. 1 only? It is missing the features like (i) What is saving in losses, (ii) What amount of subsidy against tariff is saved, (iii) what amount against FPPPA is saved(iv), How much extra energy supplied by system and charged at Rs 3.50/Unit (approved or not is yet to be specified) instead of 60/80 Paise/unit. (v) what is rate of revenue return, (vi) what is the increase in payback period due to deteriorating of capacity with respect to

present rate of deterioration in CUF. Unless and until above and other such parameters are included in report, the report is eye washing.

Likewise benefit to consumer and state Government also to be worked out for vast implementation of scheme.

In fact, as per Annual Energy Report for FY 2020-21 got prepared though agency ERDA. The existing losses of Predominant Agriculture feeder of Sojitra Sub-division are 10.94% as para 6.9 of the reports. and Page (158,165,185 of report for identical SKY feeders for which CGRF has issued orders) are as under

Circle Name	*ANAND O&M CIRCLE*	*BARODA O&M CIRCLE*	*NADIAD O&M CIRCLE*
Division Name	*PETLAD DIVISION*	*DABHOI (O & M) S/D*	*MAHEMDABAD (O&M) DIVISION*
Sub-Division	*SOJITRA*	*SINOR(O&M) S/D*	*KAPADWANJ-WEST S/D*
Fdr_code	*399003*	*303103*	*39802*
Feeder Name	*11 KV TRAMBOVAD*	*11KV ZANZAD*	*11KV SANDESHAR*
Sent MU	*0.45*	*0.49*	*0.04*
Sold MU	*0.66*	*0.68*	*0.04*
Loss MU	*-0.22*	*-0.19*	*-0.01*
% Loss	*-48.19*	*-39.35*	*-15.7*

The reports contains theoretical and actual; losses of sample Agricultural feeders are as under:

Mirzapur feeder: *Theoretical losses 18.28% and Actual losses 36.38%*

Vakatapura feeder: *Theoretical losses 12.67% and Actual losses 33.07%*

How 5% Theoretical losses is considered in arriving export unit adjustment when theoretical losses are too high?

*Even commission is also silent in Petition **2135/2022** in respect of for Correct Assessment of Unmetered Agricultural consumption with respect metered consumption of Agricultural consumer, the daily order made on 12/9/2022 containing Para 4.1 as under;*

> *".....4.1 We note that Respondent No. 1 PGVCL has sought two weeks' time for filing reply in the matter. Let the same be filed by the Respondents within two weeks from the date of this Daily Order including on the aspect of admissibility, with copy to the Petitioner...."*

The loss evaluation for unmetered category is about 1700/ KWh/year/ HP is very high and used to fetch more revenue in name of FPPPA from the Government.

Now it is said that losses are about 4 to 5% as per adjustment of Net units from Export and Import parameter of Bidirectional meters. The saving of 6% losses is not small figure and in terms of amount also on account of SKY Scheme. It is requested to Hon. Commission to get third party report for cost benefit analysis.

Para 51

The arrears as on 31/3/2023 Rs 45.74 lac's needs bifurcation of fixed charges levied, shortfall of installment amount of 35% loan of consumer and 30% loan of State government against Subsidy. If subsidy is to be paid by consumer how it can be termed as subsidy?

Para 52

The bills served contains consumption, solar generation and export and import of power into system. The numbers of bills served with interchanged quantity of generation and consumption, how CUF can be assessed. Up to three years bills are served with wrong contracted

capacity, interchanged reading and installment amount on yearly basis and they are not served as per billing cycles as mentioned in GR and circular. Even on frequent request with the highest account authority of respondent No.1, it was orally replied that the bills served were in order and did not care to get verify the records and revised the bill. The serving of bills as per billing started only after our representation to CGRF.

Para 53

The Respondent is monitoring the data from SEDM Portal on daily basis. As per our analysis the respondent is the most beneficial party with respect to consumer at NIL Investment in plant of the scheme. As said above in Para 50 all the benefits are enjoyed by respondent but did not care to compare the low generation of identical nearby plant of same feeder, and did not care for reduction in its own benefit. If it could have been monitored the generation would have been increased by getting the defects attended/rectified and could have help in avoiding the shortfall of installment amount of Subsidy-Loan.

Para 54

Petitioner do not agree with the contention of respondents, Hon. Commission may ask to produce the bills served during February 2020 to March 2023 if any served as per billing cycle.

If it could have been served and compared regularly the loss could have been avoided. Individual consumer has no facility to compare that his generation is low with respect other identical nearby plant. The losses during the tenure of ownership of respondent must be compensated

Para 55

Loan Installments

The installment amount is charged not matching with contract demand, size of plant and loan for consecutive 3 Yearly bills. The Commissioning for SKY was in February 2020. The first loan installment was charged for whole year while 48/49 days has only generation period for FY 2019-20. When all the errors are observed for the bill of FY 2022-23, the previous wrong bills were not rectified and served but shown as arrears without specifying how it has arrived with working sheet of arrears.

Para 56

The petitioner has no comments on any sub para of same and adhere to what presented in petition. In sub para 4 respondent confesses for interchanging of parameters. In sub para 5 it is stated that the working of installment was provided. In fact, the first installment for 49 days about 2 months) is to be deducted with interest and the balance amount is to be bifurcated in 7 equal installments with last one installment with interest for 10 months which has been submitted by petitioner

Para 57

Agreement

Comments are already made in Para 46 above and draw attention towards Notification of Ministry of power of Govt of India dated 13 December 2023.

Para 57,58, 59,60,61

No comments

Para 62

Petitioner do not agree with the contention of respondents. The additional Contract demand was considered prior to registration in SKY and got approved and released additional load in many cases while in some of the cases the registration fees for additional load is refunded without any justification.

Prayers

We adhere to prayer made earlier and further request that an interim order may be passed for not to disconnect any connection on account of arrears of Fixed charges and short fall of installment amount of 30% loan against state Govt subsidy. To refund excess recovered charged amount of Fixed charges with interest for the period from date of charging to date of refund as per regulation.

……."

5. The matter was kept for hearing on 22.12.2023 and 02.01.2025. During the hearing on 02.01.2025, Ld. Adv. Mr. R. N. Purohit, appearing on behalf of the Petitioner submitted that the Applicant farmers have been suffered and also not able to take benefits of 'Surya Kishan Yojana' (SKY) Scheme notified by the Government only on account of due negligence of the State distribution licensees. Therefore, the present Petition has been filed by the Petitioner due to non-compliance of Order passed by the Commission in Petition No. 1729/2018 which was filed for implementation of SKY Scheme notified by the Government of Gujarat vide its GR No. SLR/11/2016/2284/B1 dated 27.06.2018 on pilot basis for solarisation of agriculture connections under the supply jurisdiction of State Discoms.

5.1. He submitted that the dictionary meaning of term 'subsidy' as provided in the aforesaid GRs refer to money that is paid by a

Government or other authority in order to help an industry or business, or to pay for a public service and may be given on grounds of income distribution, to improve the incomes of producers, or the welfare of consumers. He submitted that the liabilities of the consumers are limited to 40% of the total cost whereas the State Government has taken loan to fulfil his commitment for 30% subsidy and the installment of this loan is met through the amount realized on account of injected unit into system over and above consumption made by the consumer at Rs. 3.50 per kWh in form of EBI over and above by DISCOM limited to 1000 unit/year/kW of the Solar plant.

5.2. In response to query of the Commission as to funding of project, he submitted that as per the Scheme, the total cost has been apportioned as 5% upfront Registration Charges by beneficiary farmers, share of 30% subsidy by Central Government and share of 30% subsidy by State Government is a part of capital expenditure and is directly made available for solar plant. Whereas the balance amount of 35% of project cost, is met from the loan taken by the State Government and to be repaid in seven instalments on yearly basis and the amount of instalment of 35% Government loan is met from the amount of EBI with limit of 1000 unit per kW per year of solar plant generation in excess of self-consumption.

5.3. He also submitted that due to lower solar generation during the ownership period of the Respondent, the amount of EBI was not enough to meet with instalment amount of Government loan and the recovery is charged for shortfall amount of instalment from numbers of beneficiary consumers for Government loan amount which is in place of subsidy. He submitted that instalment amount of State Government subsidy does not lie with the consumers.. The shortfall amount against the Government subsidy instalment is recovered by the Respondent and drastic action of disconnection are made for

recovery of the same if the generation is not up to limit of EBI. Further, the ownership of the consumer for the solar project begins only after repayment of instalments of 35% loan amount in 7 years from the date of commissioning of the project. Therefore, the criteria and meaning of the subsidy has lost its virtue by such recovery.

5.4. Ld. Adv. Ms. Shristi Khindaria, appearing on behalf of the Respondents MGVCL and GUVNL, submitted that the Petitioner as an association of consumers of the Respondent No. 1 MGVCL and has filed present Petition in regard to SKY Scheme under GR dated 27.06.2018 as implemented under the Order dated 29.10.2018 of the Commission passed in Petition No. 1729 of 2018. She submitted that the issue involved in the present Petition is billing dispute and prior to approaching the Commission, the Petitioner has already approached the CGRF of MGVCL and CGRF vide its Order decide the matter. Therefore, the present Petition is not maintainable before the Commission as the very same issue is already decided by the CGRF, MGVCL as per provisions of the Electricity Act, 2003. The Petitioner may approach the Electricity Ombudsman if they are not satisfied with the Order of the CGRF as per the Electricity Act and Regulations notified by the Commission. Therefore, any dispute raised by the consumer has to be before the CGRF and Electricity Ombudsman only and the Commission cannot adjudicate any dispute between a consumer and licensee. Hence, the present Petition is not maintainable before the Commission as issue involved in the matter is already decided by the CGRF, MGVCL.

5.5. After referring the Para 14 of the Petition as per the Commission's directives and in response to the above contention of the Respondent, the counsel appearing on behalf of the Petitioner has referred to the declaration filed by the Petitioner in the present Petition which stated that the subject matter of the Petition was not raised by the Petitioner

before any other competent forum and order has been made and prayers are almost bypassed and no other competent forum has currently seized any of the matter and has not passed any orders in relations thereto. He further submitted that the Petitioner had approached the CGRF being the consumer of the licensee, i.e., Respondent No. 1 whereas in the present Petition, the Petitioner approached the Commission as a generating company in terms of Section 2 (28) of the Electricity Act, 2003 and as, there is dispute between the licensee and generating companies and the Commission has jurisdiction to decide the dispute involved in the present Petition. He has agreed to file submissions on the issue of maintainability of the present Petition for which some time has been sought for.

5.6. After hearing the parties on 02.01.2025, the Commission passed the Daily Order dated 28.01.2025 wherein it was recorded that when the matter was called out, nobody was present on behalf of the Respondent No. 3. The Commission noted that the Respondents have raised the issue of the maintainability of the present Petition and the counsel for the Petitioner has agreed to file its submissions on issue of the maintainability of the present Petition and also sought some time to file the same in the matter and accordingly, the Commission directed both the parties to file their submissions, if any, on the aspect of maintainability of the present Petition within four weeks' time from the date of this Order, with a copy to each other.

6. In compliance with the directives of the Commission in its Daily Order dated 28.01.2025 pursuant to hearing held on 02.01.2025, both the Petitioner and the Respondent MGVCL have filed their respective written submissions in the present matter. The Petitioner has filed its written submissions in respect to issue of maintainability of the present Petition and the gist of the same is stated as under:

6.1. It is argued by the Respondent MGVCL that the issues raised in the Petition are related to billing and the Petitioner has sought to resolve by the CGRF/Ombudsman, and therefore the Petition is not maintainable.

6.2. It is submitted that the Petitioner has raised the issue with CGRF that the bills are not served at regular interval of billing cycle of 2 months period. Only the bills of annual adjustment against credit on account of net injection of solar power and loan installment are issued for FY 2019-20, 2020-21, 2021-22 and 2022-23. Only after representation and Order by CGRF, billing began bimonthly,

6.3. The issues raised in the present Petition are not in preview of CGRF, and it is in jurisdiction of the Commission, as even after completion of the 45% period of the tri party agreement during which the ownership is of Respondent No. 1 is not following the GR of SKY and Order of the Commission in Petition No. 1729/2018 for implementation of SKY Scheme 2018 Government of Gujarat.

6.4. From the contents of the Order in Petition No. 1729/2018 of its Para No.6, which reads out as under

> *"……..Since this scheme is being implemented for the first time and as a pilot project, the Commission would advise the licensee to go in for lower number of feeders say, 50 feeders or so and conduct cost benefits analysis after the results of two quarters and then implement the scheme based on the results…."*

6.5. It is submitted that the Commission had strong opinion that being Pilot project of SKY scheme, to avoid more loss to consumer only on 50 feeders are to be covered under sky scheme against sanctioned 137 feeders under G.R. and to evaluate its performance and cost benefit analysis so as to implement it on large scale if found with high revenue return and low pay back period.

6.6. In the Order on Petition 1729/2018, it is specifically asked to Respondent No.1 to file details of implemented SKY scheme and cost benefit analysis of current financial year i.e. for 2018-19. In case of Petitioner SKY scheme commissioned on 12.02.2020. Both Respondent No.1 and 2 had remained silent on this issue for years together. The 16 feeders are solarized under SKY Scheme for 772 consumers having Contract load 10930 HP and 12738 KW SPV plant instead of 13663 KW. The generation from SPV for 2018-19 to 2021-22 is 43265471 KWh = 43.265 MUs. In the absence of commissioning date and period of generation with respect to SPV Kw, it is not possible to derive the CUF and no cost benefit analysis is made and submitted or made available to participants of 16 feeders of SKY Scheme for individual feeders, but the report is given for the system as a whole and statistical figures only without cost benefits analysis. If it was made available for participants, the monitoring of same was possible with regular bimonthly billing instead of annual bill of settlement of installment of loan and credit for sale of surplus generation.

6.7. No care has been taken by the Respondent No.1 though it is the most beneficial to them without any investment in the scheme. Inaction on part of Respondent No.1 has proved to be a hurdle in achieving the expected results as projected in Scheme and the farmers are put to huge financial losses. Breach of the tri party agreement and non-implementation of the order of the Commission, this does not come under the jurisdiction of CGRF (Forum), it is, therefore, requested to allow the present Petition and impart justice to the poor farmers suffering huge losses due to the inactions of Respondent No.1.

6.8. The consumer agreement for service connection for minimum period of 2 years is executed by consumer before commencement of supply. When consumers are opting to join in SKY scheme to generate energy for his own use and excess energy to sale to Discom, is governed by

the agreement of LTOA for period of 25 years. Thus, the Petitioner acquires status of energy generator over and above consumer status. Hence, any matter/ dispute related to generator and discom is to be resolved by the Commission as per Electricity Act, 2003, as such Petition is admissible for hearing by the Commission.

6.9. It is submitted that the dream of Hon. Prime Minister Shri Narendra Modiji to make the Farmer (Khedut) have additional source of earning the income and be energy self-sufficient by ground mounted solar plants. The SKY scheme was launched with financial assistance of 30% subsidy of Central Government over and above State Government assistance - subsidy for individual agricultural consumer. The glossy picture of all benefits was shown to the farmers to join the scheme by Government of Gujarat of SKY Scheme 2018. The brochure and power point presentation by the Secretary Energy and Petrochemical Department, Gandhinagar showing payback period which is as under in short with some assumption.

Sr. No.	As per Project	Unit	Particulars
1	Contract Demand	BHP	10
2	SPV Plant in KW = Sr. No. 1 x 1.25	KW	12.5
3	Rate of Plant per KW	₹	50295
4	Cost of Plant = Sr. No.2 x 3	₹	628688
5	5% of Plant cost is up front/ Registration charges. = Sr. No. 4 x 5%	₹	31434
6	Average Consumption in kwh = unit/HP/Year	KWh	800
7	For 10HP annual Consumption in KWh =	KWh	8000
8	Average New consumption in KWH = Unit/HP/Year	KWh	600
9	Consumption after installation of SPV= unit/HP /Year	KWh	6000
10	Generation in KWh = unit/ kw/day	KWh	6
11	Generation for 12.5 kw in KWh/ day	KWh	75
12	Sunny days during Year	No	300
13	Annual generation of 12.5 KW plant = Sr. No.11 x 12	KWh	22500
14	Loss due to interruptions and other reasons@ 10% of generation	KWh	2500
15	Available generation = Sr. No. 13 -14	KWh	20000
16	Capacity Utilization Factor CUF = Sr. No.115 ÷ (2 x 8760 Hrs.') %=		18.26

17	A Amount of Saving of energy Charges at tariff rate Rs 0.60/Unit = Sr. No. 7 x 0.6	₹	4800
18	Net injection to system = Sr. No. 15-9	KWh	14000
19	B Amount of Injection at rate. Rs. 3.50/KWH = Sr. No. 18 x 3.5	₹	49000
20	EBI Unit is maximum. 1000 KWh/ KW = Sr. No. 2 x 1000	KWh	12500
21	C Amount of EBII at rate Rs. 3.50/KWH = Sr. No. 20 x 3.5	₹	43750
22	Total saving = A + B + C == Sr. No. 17 + 19 + 21		97550
23	Loan installment of 35% Consumer + 30% Govt. Loan per Year	₹	71924
24	Saving per Year for 7 years of agreement = Sr. No. 22-23	₹	25626
25	Saving per Year for reaming 18 years of life of Plant = Sr. No. 17+19	₹	53800

6.10. It is submitted that the advertisement, presentation, guidance made for SKY scheme for investment by Consumer and benefits and profit against it are well elaborated and prevailing norms and factors are considered in it. The recorded figures of generation, consumption, net injection and payment of instalment of 35% consumer loan and of 30% Govt. loan as subsidy and considering EBI for the 4 to 5 years period, and when compared with scheme DPR are quite different.

6.11. The comparison is made for the benefit availed by (i) consumer, (ii) Respondent MGVCL and (iii) to the State Government of Subsidy in form of Agriculture HP based, Agricultural tariff Compensation, FPPPA Subsidy, against the investment of 5%+ 35% = 40% of capital cost made by participating farmer with respect to payback period.

6.12. The figures are taken for comparison which appears in SKY Scheme and in presentation. The period from 12.02.2020 to 31.03.2024 is considered for Trambovad feeder. The period after 31.03.2024 is considered with average rise observed in power purchase cost, FPPPA etc. Due to non-availability of correct data in tariff orders., the aging in distribution losses and subsidy of State Govt. for Agricultural tariff, they are ignored time being in deriving payback period and related benefits.

6.13. It is submitted that the Distribution losses are to be evaluated and mandatory as per The Bureau of Energy Efficiency (BEE), with approval of Ministry of Power, Government of India, notified by the regulations viz. 'Bureau of Energy Efficiency (Manner and intervals for Conduct of Energy Audit in Electricity Distribution Companies) Regulations, 2021 vide Notification No. 18/1/BEE/DISCOM/2021 dated 06.10.2021, and amendment issued thereof on 28.10.2022. The extant regulations specify the key aspects related to energy accounting and audit for Electricity Distribution companies. These Regulations have been issued under the ambit of Energy Conservation Act, 2001, with an overall objective to reduce inefficiencies and losses in distribution sector thereby ensuring financial and economic viability of DISCOMs.

6.14. The Regulation stipulates quarterly Energy Accounting by DISCOMs, through a certified Energy Manager and annual Energy Audit by an Independent Accredited Energy Auditor.

6.15. It is submitted that instead of 5% distribution loss as shown in GUVNL Circular dated 24.07.2018, the actual loss as reported in Energy Audit report for 2020-21 for Trambovad feeder is (48.19)%. However in calculation of cost benefit analysis, it has considered only losses as approval in Tariff orders in tables of energy requirement. Thus saving is shown less to MGVCL.

6.16. For 10 HP Contract load having 12.5 KW SPV plant, constant consumption of 6000 Units/ per year and Capacity Utilization factor unchanged (ignoring deterioration by 1% per year) is taken in analysis. The 12.5 KW Solar Plant Cost is Rs. 628688/-, the 40% of investment by Consumer is Rs. 254475/-, Capacity Utilization Factor (CUF) 18.26% is kept constant for 7 years agreement period of loan during which ownership is of Respondent No. 1. At end of 7 years

consumer is saving Rs. 162008/- while MGVCL is saving the amount of purchase price and FPPPA for the units saved that could have been consumed from the system, but the consumption is met from solar generation. It works out to be Rs. 3466026/-. This means that the investment of Rs. 254475/ is retuned in 3 years and 307 days.

6.17. It is submitted that for 10 HP Contract load having 12.5 KW SPV plant, without reduction in consumption of 8000 unit/s year and considering CUF at 1% deterioration per year as shown in scheme as per PPT (CUF is 18.3% in 2020-21 reduces to 17.23% in 206-27 after 7 years) the consumer saves Rs. 107866/- while respondent saves Rs 461368/-This means that the investment of Rs. 254475/ is retuned in 3 years and 30 days.

6.18. It is submitted that the 29 consumers of 11 KV Trambovad SKY feeders feeder having 12 KW SPV Plant for each one having aggregate capacity for 29 consumers = 29 x 12= 348 Kw instead of 362.5 KW i.e. Less by 14.5 KW. The performance of these 29 consumers 12.02.2020 to 31.03.2024 is considered. The average annual consumption is kept unaltered after the 31.03.2024 and CUF observed at end of 24.03.2023 is also kept unchanged. i.e. No further deterioration in CUF.

6.19. It is submitted that 12 KW x 29 No of Consumers =348 KW is total capacity of SPV plant with Capital cost arrives Rs. 1, 75, 02,660/-, The 40% of it arrives Rs. 70, 01,064/-. After 7 years consumers saving is Rs. (43,18,611/-), while Respondent MGVCL saves for total charges of Power purchase cost and FPPPA for the quantity of units consumed by consumer for pump, which arrives Rs. 1,26,04,628/- This means that the investment of Rs. 70,01,064/ is retuned in 5 years and 305 days.

6.20. The shortfall of instalment of loan availed by consumer of 40% and 30% of Government loan amounting Rs. 43,18,611/- will be adjusted from in-come after 2026-27 onwards up to 2034-35. This will further take 7 years and 118 days after 2026-27. This means that the investment of 40% made by consumer does not get any return till 15 to 16 years from date of commissioning.

6.21. It is also submitted that the data taken for scheme and PPT for the example to show the benefit and Payback period are not realistic as found in various tariff report. CAGR (Compound Annual Growth Rate). The average connected load, consumption per HP for metered and unmetered consumer for the period 2014-15 to 2020-21 and for the period 2014-15 to 2017-18 (before announcement of SKY Scheme) are as under for all 4 Discom.

Comparison For Metered And Unmetered Agricultural Consumers of DGVCL +MGVCL +UGVCL +PGVCL			
Particulars	**Average for Period**	**2014-15 to 2020-21**	**2014-15 to 2017-18**
Un Metered KWh Consumed / Consumer		25374	23997
Metered KWh Consumed / Consumer		11652	10377
Un Metered HP/Consumer		14.98	14.18
Metered HP/Consumer		18.45	15.59
Un Metered Units consumed per HP/ year		1693	1692
Metered Units consumed per HP/year		647	682
Un metered Power supply given/utilized' years in Hrs		2270	2269
Metered Power supply given/utilized' years in Hrs		867	914
Un Metered + metered KWh Consumed/ Consumer		17600	16359
Un Metered + metered HP/Consumer		16.72	14.63
Un Metered + metered Units consumed per HP/year		1069	1129
Un Metered + metered Power supply given/ utilized' years in Hrs		1433	1514

6.22. The consumption of unmetered category of consumers, the consumption is assumed on based on Shri P.K. Mishra Committee report. According to report daily 8 Hours of 3 phase power supply for

300 days per year i.e. 300 days x 8 Hours = 2400 Hrs is to be given on a predominant agricultural feeder, and consumption per year per HP = 2400 x 1 ÷ 0.746 =1790 Unit say 1800 KWH/ HP/ Year, while in metered category is about 682 Units i.e. about 1/3rd of unmetered category. In the Scheme, calculation of PPT it is considered 800 KWH/HP/Year. The installed capacity of SPV Plant for Trambovad Feeder is 1441 KW for 1197.5 HP contracted load, but it should be 1197.5 x 1.25=1497 KW i.e. 56 KW capacity is less installed. For 10 HP Contract load 12.5 KW is eligible SPV plant as per GR but same is not round up to next figure of 13 KW, as half KW SPV may not had been found suitable for structure accommodation.

6.23. The registration was made by payment of 5% of cost of SPV plant on date 01.06.2019. Prior to awarding the order for appointment of implementing agency to M/s Sahaj Solar Private Limited, Ahmedabad was made vide Order No. MGVCL/PP/DSM/PG-SKY/ Trambovad/1784 dated 11.07.2019. The agreement is to be made available before registration, which is mandatory as per Section 6 of the Notification of Government of India Ministry of Power No. 2305/202 R&R Part (1) dated 13.12.2024, formats of contract agreement and installation certificate shall be placed on web portal of Discom of Distribution Licensee. The bi party agreement and tri party agreement are for first time comes for agricultural consumer. The farmer/consumer were not able to study the clauses of traps by DISCOM.

6.24. The agreement charges were made on 11.11.2019 and executed on later date. On 11.11.2019 the rate per KW of SPV plant were reduced @ 20% of solar roof top for residential consumers as per GUVNL Circular No. GUVNL/TECH/SOLAR CELL/ SURYA GUJRAT/ 1762 dated 09.09.2019. The Invitation for Expression of Interest (EOI) for Empanelment of Agencies for Design, Supply, Installation, testing &

Commissioning of Grid connected Rooftop Solar Photovoltaic Systems in Residential premises, aggregating to 600 MW, including five years comprehensive maintenance in the State of Gujarat during the Year 2019-20, was placed by PGVCL wide letter No. PGVCL/DSM/EOI/SRT/2019-20/01 dated 20.07.2019. The Comparison is as under:

નં. જીયુવીએનએલ/ ટેક/સોલર સેલ /સ્કાય/૧૭૪૮ તારીખ: ૨૪/૦૭/૨૦૧૮ GUVNL/TECH/SOLAR CELL/ 1748 DATED 24/7/2018 SKY Scheme						
સોલાર સિસ્ટમ (એસી) ભાવ પ્રતિ કી.વો. રૂ. (જી.એસ.ટી .સાથે)	5 kW	>5 - 9 kW	>9 - 20 kW	>20 - 50 kW	>50 - 100 kW	>100 – 150 kW
	52,091	51,975	50,295	45,149	41,999	41,474
No. GUVNL/Tech/Solar Cell/ Surya Gujarat /1752 તારીખ: ૦૯/૦૯/૨૦૧૯ GUVNL/TECH/SOLAR CELL/SURYA GUJRAT/ 1762 DATED 9/9/2019						
સોલાર સિસ્ટમ (એસી) ભાવ પ્રતિ કી.વો. રૂ. (જી.એસ.ટી .સાથે	> 5 kW	>6 - 10 kW	>10 - 25 kW	>25 - 50 kW	>50 - 100 kW	>100 kW
	45,030	43,005	38,006	37,505	36,002	33,999

CD HP	Load under SKY in kW	Rate in Rs. under SKY/ KW	Amount in Rs	Order Rate in Rs. of Roof Top	Amount in Rs.	Difference in Rs	Excess Charges in %
5	6.25	51975	324844	43005	268781	56063	21
7.5	9.375	51975	487266	43005	403172	84094	21
10	12.5	50295	628688	38006	475075	153613	32
15	18.75	50295	943031	38006	712613	230419	32
20	25	45149	1128725	38006	950150	178575	19
25	31.25	45149	1410906	37505	1172031	238875	20
30	37.5	45149	1693088	37505	1406438	186650	20

6.25. It is submitted that the procedure has remained that of east while GEB and later on by discom, that when estimate is issued for proposed

work and final bill is prepared on actual execution, the rate of materials and labour charges are considered that prevails at time of final bill. According to laid down procedure, the 40% loan amount is to be considered at reduced rate of SPV Plant as said above. In view of changed circumstances the consumer interest is to be given prime importance and petition is to be allowed to be processed by the Commission. Most of the consumers are not in receipt of copy of Agreement as on today. We had to apply under RTI for availing the copy of the agreement. The agreement is not filled up with required details in it. In light of contract and justice, they are void. Thus at each and every stage consumers' interest is lost.

6.26. It is submitted that when the consumers interest is not protected, it is the duty of regulator to issue all such necessary orders to concern. Thus, in the protection of consumers' interest, the petition is liable to maintain and proceedings is to be followed.

6.27. It is submitted that the Respondent No. 1 MGVCL and other discom have the DSM Cell with facility to monitor the efficiency of plant by watching generation, consumption, net injection of each and every feeder and of each consumer under name of Solar Energy Data Management System (SEDM) confirmed by Gujarat Power Research and Development Cell, GUVNL, IIT-Gandhinagar along with data, they collected on line. Thus, the Respondent has failed in monitoring the performance of SPV plant and failed in claiming the compensation in time, because it fails to issue bills bimonthly resulting into not knowing the loss of CUF and it comes to knowledge at end of year. If it could have been identified through SEDM system the necessary action could have been taken. Thus, in interest of consumers and inefficient working of Respondent MGVCL, the Petition is maintainable for further proceedings.

6.28. The reason behind this is, the selection of the Agency-Sahaj Solar Private Limited by the Respondent No. 1 MGVCL, without consulting the Petitioner and giving him option for selection of reliable agency from empanelled one, likewise solar rooftop system. The Sahaj Solar Private Limited (third party of tri party agreement) has installed very low efficient plant and with numbers of deficiencies in its execution and monitoring, and taking coercive action for timely maintenance. The 2nd party of tri party agreement i.e. Respondent No. 1 MGVCL is enjoying the ownership rights for first seven years of life span of plant without making any efforts of monitoring the system. The inactiveness of the present owner i.e. the Respondent No.1 MGVCL is only prime responsible for failure of dream project of both Governments. The Respondent MGVCL has fails to claim the compensation since 2020-21.

6.29. Looking to above stated facts and failure on Part of Respondent MGVCL for execution and not obeying the Order of the Commission in Petition No. 1719/2018, the present Petition is liable for admission.

6.30. It is submitted that on day 24.07.2018 of issue of circular for guiding and implementation of SKY Scheme by Nodal Agency GUVNL, the clarification and suggestion was made to Energy and Petrochemical Department Gandhinagar for attracting the consumer to take active participation in SKY scheme. EPD replied by letter 13.08.2013 that the point 2 and 7 of GUVNL Letter No. GUVNL/Tech/ Solar cell/sky 1758 dated 24.07.2018 will be replied separately, and for point 1,3,4, 5,6 and 8 were replied and ask nodal agency to take necessary approval from the Hon'ble Commission wherever necessary. In the para 4 it was suggested not to levy fixed charges of Rs. 20/ HP/ month for metered category of Agricultural consumers who joins in SKY scheme. It was agreed by the Government to waive the fixed charges and to get approval from Commission if necessary. The Petition No. 1729/2018

was filed for levying the charges art Rs.3.50/unit if drawn from system, but nodal agency remained silent in the fixed charge matter and contrary issue circular dated 15.10.2019 to levy the fixed charges. Thus, intention is very clear that to fetch more energy charges against approved rate of Rs. 0.60 /Unit, but relaxation of fixed charges should not got waved off, though the Government has consented for waiver. In light of fixed charge issue, the CGRF has no jurisdiction and hence the present Petition is admissible.

6.31. In view of the above, the Petitioner has requested that an interim order may be passed for not to disconnect any connection on account of arrears of fixed charges and short fall of installment amount of 30% loan against State Government subsidy and to refund excess recovered charged amount of fixed charges with interest for the period from date of charging to date of refund as per Regulation.

7. The Respondent MGVCL has filed its written submissions in respect to issue of maintainability of the present Petition wherein while reiterated the submissions as stated in above para 3, has also made the following submissions:

7.1. It is submitted that the present Petition filed by the Petitioner is not maintainable and the same should be dismissed on the ground that the Petitioner should first approach the Ombudsman by way of procedure prescribed by the Commission.

7.2. It is submitted that the Petitioner himself admits that "*if the CGRF had resolved the issue in light of facts, the need to file petition would not have been arised.*" Therefore, it is clear that the Petitioner not having received the relief as it had desired in the CGRF, is now approaching the Commission. This is precisely forum shopping. The Petitioner has made its own interpretation of the CGRF Orders and claims that there is no use to go before Ombudsman and it is clear that the Petitioner is

in fact indulging in forum shopping and not answering the specific issue on maintainability.

7.3. In view of the above, the Petitioner during the arguments, has sought to argue that it has not filed the petition as a consumer but as a generating company. This is completely unacceptable and is not correct. The Petitioner is not a generating company.

7.4. It is submitted that at no point in the Petition or rejoinder did the Petitioner claim to be a generating company. Further, the Petitioner is SKY Scheme Committee of Trambovad Feeder but the Petitioner has not provided any documentation to demonstrate that it is an association of generators nor provided the list of members. In fact as per understanding of MGVCL, the same is an association of consumers and it was on this basis, the President of the Petitioner had approached CGRF. If the Petitioners were disputing the aspects as a generating company (or association of generating companies), it would not have approached CGRF. It was only on failure to get relief from CGRF as they desired that the present Petition has been filed.

7.5. It is submitted that while filing the present Petition, the covering letter makes reference to Mr. Vikrambhai Prahladbhai Patel, President of Petitioner with consumer number and reference to 80 other consumers. Also, reference is made to consumers only. Therefore, clearly the Association is of the consumers and not generators. In the Rejoinder, the clear reference is made to agricultural consumers and further reference to fixed charges and contract demand which are all related to consumers' connection.

7.6. It is submitted that the issues raised by the Petitioner are also not that of a generating company. The prayers refers to consumers and not generators and further reference is made to disconnection. In any event, when the Order dated 29.10.2018 was passed holding that in

case of grievance with the scheme, the CGRF may be approached, there was no objection or challenge to the same. The Petitioner cannot now completely change its stand.

7.7. It is submitted that upon perusal of the issues raised by the Petitioner in the Petition also makes it clear that the issues relate to grievance of consumers and therefore falls within the scope of Section 42(5) and 2019 Regulations. Further, if there are issues in relation to tripartite agreement, the dispute resolution is provided therein also. As recognised by the Hon'ble Supreme Court and High Court of Gujarat, the grievances of consumers has to be raised before CGRF and Ombudsman and cannot be raised before the Commission. The Commission cannot decide on disputes between licensees and consumers. Otherwise, there would be no purpose in having CGRF and Ombudsman.

7.8. In fact the declaration made by the Petitioner in the present Petition that the subject matter had not been raised in any other forum is not correct since the President of the Petitioner had in fact approached CGRF on similar aspects. The complaint before the CGRF was that bills are not in line with the Government Resolution and Order of the Commission. The contention of the Petitioner during the hearing that it had approached the CGRF as a consumer, whereas the present proceedings have been initiated as a generator is baseless. The issue of fixed charges can only be addressed in the Petitioner's/members capacity as a consumer. Further, other aspects are not an issue of dispute of e generator with the procurer as sought to be now conveyed. Further, this has been raised by the Petitioner for the first time during arguments in rejoinder and not in any of the pleadings including the rejoinder filed in the reply by MGVCL even though the objection on maintainability was taken in the said reply

7.9. Further, the Respondent also refer to the Electricity (Rights of Consumers) Rules, 2020 wherein the concept of 'prosumer' in Rule 2(m) is provided as *'a person who consumes electricity from the grid and can also inject electricity into the grid for distribution licensee, using same point of supply'.* Therefore, the prosumers are also considered under Consumer Rules. Further, Rule 11(1) categorically provides as under:

> "*11. Consumer as prosumer.- (1) While the prosumers will maintain consumer status and have the same rights as the general consumer, they will also have right to set up Renewable Energy (RE) generation unit including rooftop solar photovoltaic (PV) systems - either by himself or through a service provider.*"

7.10. In view of the above, even considering the claim of the Petitioner that its members may be generating electricity, the same does not affect their status as a consumer. The issues raised by the Petitioner are not as a separate generating company but as a consumer who may have set up a solar system. The scheme was for consumers and the Petitioner is an association of such consumers. Therefore, at this stage, it is not open to the Petitioner to raise any issue on its status as consumers.

7.11. It is however denied that there is any non-compliance of the Order dated 29.10.2018. In fact, the Order only reiterates adoption of the scheme with only change in regard to the tariff for net drawl by consumer. This has been implemented by DISCOMS. There is no other direction in the said Order, which can be claimed to be not complied with. On the other hand, the Order itself recognises that in case of any grievance in regard to the Scheme, CGRF has to be approached.

8. Thereafter, the matter was kept for hearing on 14.07.2026. During the hearing, Ld. Adv. Mr. R. N. Purohit, appearing on behalf of the Petitioner submitted that the Respondents has raised the issue of the

maintainability of the present Petition. The Commission vide its Daily Order dated 28.01.2025, directed both the parties to file their response to the said aspect within four weeks from the date of the Order. He submitted that in compliance of the aforesaid direction, the Petitioner had filed its written submissions on the issue of maintainability on 19.02.2025. However, no reply or response to the said written submissions had been received from the Respondents till the date.

8.1. He submitted that the Petitioner is seeking an interpretation with respect to “subsidy” provided by the State Government under Surya Shakti Kisan Yojana (SKY Scheme), as there exists ambiguity regarding the nature and manner of the subsidy extended to the farmers. He submitted that during implementation of the SKY Scheme, it was wrongly represented that the project would be implemented with 30% subsidy from the Central Government, 65% subsidy from the State Government and only remaining 5% contribution to be borne by the farmers. However, while the Central Government subsidy was released upfront, the State Government's contribution was not extended as an outright subsidy but was instead treated as a loan to be serviced through Evaluation based Incentive (EBI) received for Energy supplied to DISCOMs. He submitted that such recovery defeats the very concept of a "subsidy" and accordingly, sought an authoritative interpretation of the term " subsidy." He also submitted that owing to lower generation from the project due to inefficient maintenance of the Solar project, the loan recovery mechanism results in the farmers effectively bearing a substantially higher financial burden than what was originally represented under the Scheme.

8.2. He further submitted that at the time of implementation of the project, it was represented that the solar plants would achieve a

Capacity Utilisation Factor (CUF) of approximately 18.3%, subject to annual degradation of about 1%. However, the actual CUF achieved has consistently remained in the range of 13% to 15%, which has adversely affected the generation of electricity and consequently the revenue expected from EBI to service the financial obligations under the Scheme. He submitted that despite the lower generation, the recovery of loan installments continued, and thereby causing financial hardship to the farmers. He submitted that although a solar plant of 12.5 kW capacity was represented to be installed, in certain cases, only a 12 kW system was actually installed, which also contributed to lower generation and reduced financial returns under the Scheme.

8.3. He submitted that under the Bipartite and Tripartite Agreements executed under the Scheme, the responsibility for operation and maintenance of the solar plants during the initial seven-year period rests with the Distribution Licensee and/or its authorised agency and not with the individual farmers. Therefore, the Distribution Licensee cannot attribute the reduced generation or deterioration in performance, to lack of maintenance by the farmers.

8.4. He submitted that there were several instances where solar panels were damaged or became non-functional and were not repaired or replaced for prolonged periods despite the contractual obligation rest with the agencies to attend to such defects within the stipulated time. He also submitted that such delays significantly reduced electricity generation while the recovery of loan instalments continued, thereby causing prejudice to the farmers.

8.5. He submitted that the objective of the SKY Scheme was to enable farmers not only to meet their own agricultural electricity requirements but also to earn additional income by supplying surplus energy to the grid. However, owing to the alleged deficiencies in implementation, lower-than-assured generation and continued

recovery of loan amounts, the intended benefits of the Scheme have not accrued to the affected farmers.

8.6. On the issue of maintainability, he submitted that the disputes raised in the present Petition arise out of the implementation of the SKY Scheme, the obligations of the Distribution Licensee under the applicable agreements and the interpretation of the subsidy mechanism providing under the Government Scheme. Therefore, the Commission is the appropriate forum to adjudicate the issues raised in the present Petition. He further submitted that although certain similarly placed farmers have approached the Hon'ble High Court, the Petitioner has approached this Commission in the bonafide belief that the present disputes fall within the jurisdiction of the Commission and the Commission can effectively adjudicated the dispute involved in the present Petition. He further requested the Commission to direct the Respondent to provide the copy of the written submission, if any, filed by the Respondent in the present matter on the issue of maintainability of the present matter.

8.7. Ld. Adv., appearing on behalf of the Respondents No. 1 and 2, submitted that they have already filed their written submission on 25.02.2025 and has agreed to provide the copy of written submission to the Petitioner. She submitted that the present Petition is not maintainable before the Commission as the disputes raised by the Petitioner substantially falls within the jurisdiction of the Consumer Grievances Redressal Forum (CGRF) constituted under Section 42 of the Electricity Act, 2003. She further submitted that the President of the Petitioner Association had earlier approached the CGRF by raising substantially the same grievances relating to the implementation of the Surya Shakti Kisan Yojana (SKY Scheme), including issues concerning CUF, financial implications of the Scheme and other allied matters. The CGRF had adjudicated upon the grievances and also

issued certain directions to the Respondent. She submitted that if any grievance still persists against the Order of the CGRF, the statutory remedy available to the Petitioner is to approach the Electricity Ombudsman established under Section 42(6) of the Electricity Act, 2003.

8.8. She submitted that the jurisdiction of the State Commission is statutorily circumscribed by Section 86 of the Electricity Act, 2003. The Section 86(1)(f) empowers the Commission to adjudicate only upon disputes between licensees and generating companies or to refer such disputes for arbitration. Since the present Petition has been filed by an association of consumers and not by a generating company or licensee, the Commission lacks jurisdiction to entertain the dispute involved in the present Petition.

8.9. She further submitted that Section 42 of the Electricity Act, 2003 specifically provides a mechanism for redressal of consumer grievances through the CGRF and the Electricity Ombudsman. While referring to Sections 42(5), 42(6) and 42(7) of the Electricity Act, 2003, she submitted that the legislative scheme clearly contemplates that disputes raised by consumers are required to be adjudicated by the CGRF in the first instance, with a statutory appeal before the Ombudsman. However, in the present case, the Petitioner has bypassed the statutory mechanism prescribed under the Electricity Act, 2003.

8.10. She submitted that the Hon'ble Supreme Court, the Hon'ble APTEL and the Hon'ble Gujarat High Court have consistently held that grievances raised by consumers are required to be adjudicated under the mechanism provided by Section 42 of the Electricity Act, 2003.

8.11. She further submitted that several issues have been raised by the Petitioner, including those relating to the CUF and maintenance of the

solar plants, are intrinsically connected with the scope of work and obligations of the agency appointed for implementation and operation and maintenance of the project. In the absence of such agency being a party to the proceedings, the disputes cannot be effectively adjudicated. She further submitted that such disputes appropriately be decided by the Commission in exercise of its statutory jurisdiction.

8.12. Without prejudice to preliminary objection regarding maintainability, she submitted that all information relating to the subsidy component, loan component and financial structure of the Scheme had been specifically incorporated in the Power Purchase Agreement and the tripartite agreement executed between the parties. She further submitted that prior to implementation of the Scheme, the Respondent had also issued the necessary circulars explaining the financial structure of the Scheme pursuant to the Commission's Order dated 29.10.2018. Therefore, it cannot be contended that the terms of the Scheme were not disclosed to the participating consumers or it was wrongly explained to the participating consumers.

8.13. She further submitted that the present proceeding is in the nature of an attempt to challenge or circumvent the CGRF's decision before a forum which is not vested with appellate jurisdiction over the CGRF. She submitted that the disputes raised by the Petitioner are related to subsidy, CUF, billing and levy of fixed charges in respect of their electricity connections, all of which arise in their capacity as consumers.

8.14. Referring to Rule 11 of the Electricity (Rights of Consumers) Rules, 2020, she submitted that a consumer installing a distributed renewable energy system continues to retain the status of a consumer and merely acquires the additional status of a prosumer. Such installation does not alter the legal character of the consumer into

that of a generating company for the purposes of Section 86(1)(f) of the Electricity Act, 2003. In view of the above submissions, she submitted that the present Petition is not maintainable for want of jurisdiction.

9. After hearing the parties on 14.07.2026, the Commission passed the Daily Order dated 18.07.2026 wherein it was recorded that upon the request of the Petitioner to direct the Respondent to provide copy of its written submissions to the Petitioner and also grant two weeks' time to the Petitioner to file its rejoinder reply to the submissions of the Respondents on the issue of maintainability of the present Petition, the Commission directed the Respondents to provide the copy of its written submissions to the Petitioner, within 3 days from the date of the Order and also place on record an affidavit of the proof of service to the Petitioner. Further, liberty was granted to the Petitioner to file its rejoinder reply, within two weeks from the date of receipt of the written submissions, from the Respondents, with a copy to the Respondents.

10. In compliance with the directives of the Commission in its Daily Order dated 18.07.2026, the Petitioner has filed the submissions in the present matter on 17.08.2026. The aforesaid submissions, as stated in verbatim are reproduced as under:

> "……
>
> ***Para 5, 6, 7, 8,***
>
> *CGRF Ombudsman etc are irrelevant in compare to Petitioner matter.*
>
> *We are constituted Samiti - Committee per instruction/ Circular of Nodal Officer -GUVNL, and there are No's of such Samiti - Committee is registered with each DISCOM and details are available with DISCOMs.*

Consumer agreement Period is 2 years while Generator agreement is for 25 years and thus consumer who is having 25 years agreement is not under purview of CGRF.

Whether the Agreement which were asked to be made Bi party or Tri party which are comes for execution are for the first time in case of Consumer and Licensee needs to be got approved from Commission as they are for the period of 25 Years. The Sections related to Agreement are as under EA 2003 Section

17 c *--- (1) No licensee shall, without prior approval of the Appropriate Commission, -*

(4) Any agreement, relating to any transaction specified in sub-section (1) or sub-section (3), unless made with the prior approval of the Appropriate Commission, shall be void.

Para 10

Noted

Para 11

Noted

Para 12

Not agreed and denied. CGRF is primarily and predominantly concerned with billing Disputes. Our grievance is towards various irregularities like issue of 30% state Government subsidy, not achieving guaranteed CUF though out operation since commencement of SKY Scheme 2018 and subsequent failure of respondent in claiming the compensation from Agency, fixing responsibility of implementing agency towards timely maintenances and necessary repairs/replacement as per agreement etc. Detailed grievances would be raised at the time of hearing on merits

Para 13

Not agreed and denied. As repeatedly claimed by respondent for approaching CGRF, they have conveniently overlooked CGRF orders (Attached with our petition) which has circumvented major issues raised by us and ruled on Respondent being Licensee

and getting undue benefit at cost of consumer and failed as owner in first 7 year period to monitor the performance of the solar plants installed by the agency engaged / hired by respondent. It is loss to his benefit due to low CUF and imposing burden to farmer for the 30% loan taken by Govt. against subsidy and its installment with interest to be borne by participating farmers. The respondent being the implementing agency of the scheme it was his failure to supervise and failed in collecting the Compensation and Passed on to farmers. Thus farmer benefit is marred.

Para 16

Not agreed and denied. No mechanism was implemented to monitor the field correct situation. Consecutive 3 years billing were not carried out. Only Settlement bill of financial years were served after lapse of 2 to 3.5 months delay, with various irregularities such as CD, Consumption generation interchanged, installment yearly for first 2 month utilization. In fact 24 Hrs round the clock facility of SEDM is available for each feeder of DISCOM to compare each day CUF of same feeder identical consumers of nearby area of same feeder. Incidentally respondent's claim that SEDM is also available with consumers is not functioning adequately.

Para 17

Not agreed and denied. The order of CGRF is silent on all the issues raised before it. Ombudsman role is limited to review/ rectify the order of CGRF on any technical, legal and other issue related to administrative approach only,.

Para 18

Not agreed and denied. The Group of 81 farmers generates power of 1.441 MW with generation at different locations and uses at same location of generation and balance is sold to Respondents. Thus by virtue of registration each participating farmer is member of group captive generation. Being the Generator the dispute is to be resolved by the Commission only...

Para 19

Not agreed and denied. The respondent has conveniently overlooked the circular of Nodal Agency - GUVNL - those farmers joining the scheme shall form a committee to represent them in any or all matters with respondent. However copy of our association is once again enclosed herewith.

By Virtue of the installation of non-renewable energy for self-use its status is captive generator. And later on it was termed as Prosumer is elaborated in rejoinder by quoting the proposed amendment by Govt. of India. Unfortunately Respondent did not formed CGRF for Prosumer till time of filing of this petition.

Para 22

Not agreed and denied. We have already narrated in detail the reasons and logic of jurisdiction of this Hon. Commission to adjudicate our petition. Respondent has repeated same arguments in different Para of their response.

Para 23

Not agreed and denied. The respondent himself admits here that we approached CGRF on similar aspects but not same complaints. As narrated here in above, the issues raised in this petition are entirely different.

Para 25

Not agreed and denied. There was No existence of Forum of respondent to hear Prosumer -which we are. Respondent may give date of formation of forum as per rules 2020 with first case of hearing.

Para 26

Not agreed and denied. Like respondent, we crave leave of Hon. Commission to make submissions on the merits at the time of hearing

Para 27

Not agreed and denied. We crave leave of Hon. Commission to make submissions on violations of order in petition 1729/2018.

....."

11. Heard the parties. We have perused the Petition and the prayers made therein, the reply affidavit filed by MGVCL, the rejoinder filed by the Petitioner, the written submissions filed by the Petitioner and the Respondent MGVCL pursuant to the Daily Orders dated 28.01.2025 & 18.07.2026 and material available on record. Since the Respondent MGVCL has raised a preliminary objection as to the maintainability of the present Petition, the said issue is required to be considered at the threshold.

11.1. We note that the present Petition has been filed by the Petitioner, viz., President, SKY Scheme Committee of Trambovad Feeder, alleging non-compliance with the Order dated 29.10.2018 passed by the Commission in Petition No. 1729 of 2018 relating to implementation of the "Surya Shakti Kisan Yojna" (SKY Scheme) notified by the Government of Gujarat vide Government Resolutions dated 27.06.2018 and 29.09.2018. The SKY Scheme was introduced as a pilot project for solarization of agricultural connections under the jurisdiction of the State-owned Distribution Licensees, viz., DGVCL, MGVCL, PGVCL and UGVCL.

11.2. The grievances raised in the Petition relates, *inter-alia*, levy of fixed charges, billing, loan instalments, subsidy, generation and Capacity Utilisation Factor (CUF), compensation for alleged shortfall in generation, maintenance of solar plants, implementation of the tripartite agreement, cost-benefit analysis and alleged non-compliance with the directions contained in the Commission's Order dated 29.10.2018. The Petitioner has, accordingly, sought various consequential reliefs including revision/correction of bills, refund/recovery of amounts, withholding of disconnection, payment of compensation, directions concerning CUF and maintenance of solar plants and furnishing of cost-benefit analysis.

11.3. The Respondent MGVCL has raised a preliminary objection that the grievances, in substance, are grievances of consumers against the Distribution Licensee and therefore, fall within the statutory mechanism prescribed under Section 42(5), (6) and (7) of the Electricity Act, 2003. It has been submitted that such grievances are required to be considered in the first instance through the Consumer Grievance Redressal Forum (CGRF) and thereafter, if the consumer remains aggrieved, before the Electricity Ombudsman.

11.4. The Respondent MGVCL has further submitted that the adjudicatory jurisdiction of the State Commission under Section 86(1)(f) of the Electricity Act, 2003 is confined to disputes between licensees and generating companies and does not extend to individual consumer grievances. Reliance has, inter alia, been placed upon the judgment of the Hon'ble Supreme Court in case of MERC V/s. Reliance Energy Limited & Ors., (2007) 8 SCC 381, the judgment of the Hon'ble APTEL dated 30.03.2009 in BSES Rajdhani Power Limited V/s. DERC in Appeal No. 181 of 2008 and the judgment of the Hon'ble High Court of Gujarat dated 01.07.2022 in Rashmikaben Navinbhai Patel & Ors. V/s. UGVCL in SCA No. 18138 of 2016. The Respondent MGVCL has also relied upon the GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019.

11.5. It has further been submitted by the Respondent that the President of the Petitioner Committee had already approached the CGRF, MGVCL, in respect of grievances arising from implementation of the SKY Scheme and that the CGRF had passed an Order dated 13.09.2023. According to the Respondent MGVCL, if the Petitioner was aggrieved by the said Order or its implementation, the remedy available in law was to approach the Electricity Ombudsman and not to institute an independent Petition before the Commission in respect of substantially the same consumer grievances.

11.6. The Respondent further submitted that the Petitioner, during the course of arguments, attempted to contend that the present Petition had been filed not in the capacity of a consumer but in the capacity of a "generating company" so as to bring the dispute within Section 86(1)(f) of the Electricity Act, 2003. The Respondent MGVCL contested the said contention and submitted that the Petitioner is an association of consumers participating in the SKY Scheme and is not a generating company. It was also submitted that the grievances and prayers in the Petition themselves demonstrate that the dispute arises from the electricity connections, billing, loan instalments, fixed charges, generation and other matters concerning consumers. The Respondent MGVCL further relied upon Rule 11 of the Electricity (Rights of Consumers) Rules, 2020, and submitted that a consumer who installs a renewable energy generation system continues to retain the status of a consumer and may additionally be treated as a "prosumer"; such status does not transform the consumer into a generating company for the purposes of Section 86(1)(f) of the Electricity Act, 2003.

11.7. The Petitioner, on the other hand, has submitted that the present Petition is maintainable before the Commission since the grievances arise from alleged non-compliance with the Commission's Order dated 29.10.2018 and from the alleged failure of the Respondent MGVCL to implement the SKY Scheme in accordance with the Government Resolutions and the agreements executed under the Scheme. It has been contended that such grievances cannot be treated as mere billing disputes and that issues concerning CUF, maintenance of solar plants, subsidy, compensation, implementation of the Scheme, interpretation of the Government Resolutions and alleged non-compliance with the Commission's directions fall within the regulatory jurisdiction of the Commission.

11.8. The Petitioner has also sought to distinguish the earlier proceedings before the CGRF by submitting that the said proceedings were instituted in the capacity of a consumer, whereas the present Petition is stated to have been filed in a different capacity in relation to solar generation under the SKY Scheme. It has further been contended that the issue of levy of fixed charges involves interpretation and implementation of the Government Resolutions and the Commission's Order and therefore, the same ought to be considered by the Commission.

11.9. In the present case, although the Petition has been filed alleging "non-compliance" with the Commission's Order dated 29.10.2018 passed in Petition No. 1729 of 2018, the nature and scope of the reliefs sought therein assume significance. At this stage, and without expressing any opinion on the merits of the grievances raised in the Petition, the Commission observes that the grievances essentially arise in the context of the implementation of the SKY Scheme and the difficulties, if any, arising therefrom. The Commission's Order dated 29.10.2018 was passed in the context of the said Scheme and, while laying down the framework for its implementation, also contemplated a mechanism for addressing difficulties and grievances arising in the course of such implementation. Therefore, the mere fact that the grievances raised by the Petitioner have a nexus with the SKY Scheme or are sought to be characterised as instances of non-compliance with the aforesaid Order cannot, by itself, confer adjudicatory jurisdiction upon the Commission under Section 86(1)(f) of the Electricity Act, 2003.

11.10. It is to note that Section 42 of the Electricity Act, 2003 casts a statutory obligation upon every distribution licensee to establish a forum for redressal of grievances of consumers and further provides for a hierarchy of remedies. Section 42(5) of the Electricity Act, 2003

mandates every Distribution Licensee to establish a forum for redressal of grievances of consumers and Section 42 (6) thereafter provides for a representation before the Electricity Ombudsman appointed by the State Commission where the consumer if aggrieved by the non-redressal of his grievance by the Forum. Section 42 (7) casts a duty on the Electricity Ombudsman to settle the grievance within the specified time and manner. The statutory scheme, therefore, creates a specific and structured mechanism for adjudication of consumer grievances.

11.11. Section 86(1)(f) of the Act, on the other hand, empowers the State Commission to adjudicate upon disputes between licensees and generating companies and to refer such disputes for arbitration. The provision does not confer upon the Commission the jurisdiction to adjudicate individual consumer grievances merely because such grievances may involve consideration of a statutory, contractual or regulatory issue.

11.12. The Hon'ble Supreme Court, in case of MERC V/s. Reliance Energy Limited and MSEDCL v. Lloyd Steel Industries Limited, (2007) 8 SCC 381, while examining the scope of Section 86(1)(f) of the Electricity Act, 2003 has settled above position and held that the adjudicatory function of the State Commission is limited to the matter prescribed therein and that the Commission cannot adjudicate disputes relating to grievances of individual consumers, which have necessarily to be raised before the forum constituted under Section 42 of the Electricity Act, 2003. In the said judgment, while considering the scope of Sections 42(5), 42(6) and 86(1)(f) of the Electricity Act, 2003, the Hon’ble Supreme Court held that once a forum for redressal of individual consumer grievances has been created under Section 42(5), such grievances are required to be raised before the said forum and thereafter before the Electricity Ombudsman. The Hon’ble

Supreme Court further held that the adjudicatory function of the State Commission under Section 86(1)(f) does not encompass individual consumer complaints. The Hon'ble Court specifically observed that Section 86(1)(f) provides for adjudication of disputes between licensees and generating companies and does not include an individual consumer dispute. The ratio of the aforesaid judgment is directly attracted to the present case. The Hon'ble Supreme Court also made it clear that the Commission may have powers to issue appropriate general directions in exercise of its regulatory functions, particularly where the public at large is concerned; however, such regulatory powers cannot be conflated with the adjudication of individual consumer disputes and consequential individual claims for refund, compensation or correction of bills. The aforesaid principle assumes greater significance in the present case because the prayers made by the Petitioner are substantially individualised and consequential in nature. The Petitioner seeks reliefs concerning billing, recovery, loan instalments, compensation, disconnection and generation attributable to participating consumers.

11.13. The aforesaid principle has also been followed in subsequent decisions including the judgment dated 30.03.2009 of the Hon'ble APTEL, in case of BSES Rajdhani Power Limited V/s. DERC, in Appeal No. 181 of 2008, wherein the Hon'ble APTEL held that the State Commission has no jurisdiction in a dispute between a consumer and a licensee, and that the remedy of the consumer lies before the grievance cell, i.e., the CGRF and thereafter before the Electricity Ombudsman. The Hon'ble Gujarat High Court in its judgment dated 01.07.2022 in Rashmikaben Navinbhai Patel & Others V/s. Uttar Gujarat Vij Company Limited in SCA No. 18138 of 2016, applying the very same principle, has held that all individual grievances of consumers are to be raised before the licensee's own redressal forum and since the Respondent UGVCL in that case had its own redressal

forum and Electricity Ombudsman, the writ Petitioners were relegated to avail of that remedy and the writ petitions were rejected on that ground.

11.14. Applying the aforesaid judicial principles to the present case, the Commission find that the reliefs sought by the Petitioner are substantially individualised and consequential in nature. The grievances concerning fixed charges, billing, loan instalments, generation, CUF, compensation, disconnection and maintenance of solar plants arise in the context of the electricity connections and the consumer-licensee relationship of the participating agricultural consumers. Such grievances, irrespective of whether their determination may incidentally require examination of the Scheme, the Government Resolutions, the Commission's Order or the agreements executed thereunder, retain their essential character as consumer grievances. We are, therefore, unable to accept the submission of the Petitioner that merely because the grievances are connected with the implementation of the SKY Scheme, the same would fall within the adjudicatory jurisdiction of the Commission.

11.15. There is yet another circumstance on the record which, in the considered view of the Commission, materially reinforces the aforesaid conclusion. The record establishes that the President of the Petitioner Committee himself had already approached the Consumer Grievance Redressal Forum (CGRF), MGVCL, in relation to grievances arising out of the implementation of the SKY Scheme. The issues placed before the CGRF were not wholly unrelated or peripheral matters; rather, they substantially concerned the very nature of grievances which are sought to be agitated in the present proceedings, including billing at regular intervals, generation-related issues, loan instalments and other consequences arising in the course of implementation of the Scheme. Significantly, the Petitioner itself

has acknowledged that the grievance regarding non-service of bills at the prescribed billing cycle was raised before the CGRF and that, pursuant to the representation made before the CGRF and the Order passed by it, bi-monthly billing was thereafter commenced. Thus, the record demonstrates that the Petitioner had, in fact, invoked the statutory consumer grievance redressal mechanism in respect of grievances arising from the implementation of the SKY Scheme and had obtained an adjudicatory order from the competent Forum.

11.16. The CGRF, MGVCL, accordingly passed its Order dated 13.09.2023, dealing with the grievances raised by the Petitioner. The Respondent MGVCL has specifically submitted that the directions contained in the said Order have been complied with. The Petitioner, therefore, cannot, merely by giving a different description or characterisation to the grievances, seek to re-agitate before the Commission matters which have already been placed before and dealt with by the specialised consumer grievance redressal mechanism.

11.17. The significance of the aforesaid circumstance is further enhanced by the fact that the Commission's own Order dated 29.10.2018, while permitting implementation of the SKY Scheme as a pilot project, had expressly contemplated a mechanism for redressal of grievances arising from the Scheme through the designated nodal officer and, where the grievance remained unresolved, through the CGRF. Thus, the Petitioner's earlier resort to the CGRF was not an alternative or extraneous course adopted by it; it was the very grievance-redressal mechanism contemplated under the statutory framework as well as the Commission's Order governing implementation of the SKY Scheme.

11.18. Once the Petitioner had already invoked the said mechanism and the CGRF had passed an Order in respect of the grievances arising from

the Scheme, any further grievance as to the correctness, adequacy or implementation of that Order was required to be pursued in accordance with the statutory appellate/redressal mechanism, namely, by approaching the Electricity Ombudsman in terms of the applicable Regulations. The existence of such a structured statutory remedy assumes particular significance where the reliefs sought essentially concern individual consumer consequences such as correction of bills, recovery of loan instalments, compensation, fixed charges, disconnection and generation-related claims.

11.19. The Commission is, therefore, unable to accept the attempt of the Petitioner to sever the grievances from their underlying consumer character merely by describing them as issues relating to non-compliance with the Commission's Order or implementation of the SKY Scheme. The prior invocation of the CGRF by the President of the very Petitioner Committee, the passing of the Order dated 13.09.2023, and the Respondent's assertion of compliance with the directions contained therein constitute a significant and independent circumstance demonstrating that the dispute, in its substance, is one arising from consumer grievances and is required to follow the statutory hierarchy of redressal provided under Section 42 of the Electricity Act, 2003 and the Regulations framed thereunder.

11.20. The Commission considers it appropriate to examine, in some detail, the contention of the Petitioner that the CGRF has no jurisdiction merely because the grievances arise out of or are connected with the implementation of the SKY Scheme. The said contention, in the considered view of the Commission, is contrary not only to the statutory scheme governing consumer grievance redressal under the Electricity Act, 2003, but also to the express mechanism specifically contemplated by the Commission while permitting implementation of the SKY Scheme.

11.21. At the outset, it is material to note that the Commission, vide its Order dated 29.10.2018 in Petition No. 1729 of 2018, permitted the four State-owned DISCOMs to implement the SKY Scheme as a pilot project, subject to compliance with specified directions. The Commission, while doing so, was conscious that the Scheme was being implemented in the interest of farmers and that an effective mechanism would necessarily be required to address grievances arising during its implementation. Accordingly, the Commission expressly stipulated, inter alia, as under:

> "*For redressal of any grievance arising out of this scheme, a nodal officer shall be designated by the DISCOMs at the Division level. If the grievances are not addressed by the nodal officer within 30 days, the grievances shall be transferred to CGRF for necessary speedy resolution as per the Regulations.*"

The above direction is of significance for determining the issue presently under consideration. The language employed by the Commission is clear and admits of little ambiguity. The direction does not carve out grievances arising under the SKY Scheme from the jurisdiction of the CGRF. On the contrary, it expressly brings "any grievance arising out of this scheme" within the prescribed grievance-redressal mechanism. The Commission first contemplated resolution through a designated nodal officer at the Division level and, in the event of failure to resolve the grievance within 30 days, expressly directed that such grievance be transferred to the CGRF for necessary speedy resolution in accordance with the applicable Regulations.

11.22. Thus, the Order under which the SKY Scheme came to be implemented contains an express recognition that grievances arising from its implementation may travel to the CGRF. Consequently, the contention that the CGRF lacks jurisdiction merely because the

grievance originates from the SKY Scheme would render the aforesaid direction contained in the Commission's Order dated 29.10.2018 wholly otiose. Such an interpretation cannot ordinarily be accepted, particularly when the Commission, while authorising the Scheme, consciously prescribed a specific institutional mechanism for redressal of grievances arising therefrom.

11.23. More importantly, the mechanism contemplated under the Order dated 29.10.2018 is not a mechanism standing apart from the statutory consumer grievance redressal framework. The reference in the said Order to transfer of unresolved grievances to the CGRF is expressly qualified by the words "as per the Regulations". The direction must, therefore, be understood harmoniously with Section 42(5) and 42(6) of the Electricity Act, 2003 and the Regulations framed by the Commission governing the Consumer Grievance Redressal Forum and the Electricity Ombudsman.

11.24. Section 42 of the Electricity Act, 2003 embodies a specific statutory architecture for redressal of consumer grievances. The CGRF is constituted for adjudication of grievances of consumers against the distribution licensee, while an aggrieved consumer is thereafter provided a further statutory remedy before the Electricity Ombudsman. The Commission's Order dated 29.10.2018, therefore, cannot be construed as having granting any parallel or exclusive grievance mechanism *de-horse* which displaces the statutory framework. Rather, the Order is consistent with the statutory mechanism, by identifying any prescribing the mechanism for grievances redressal specifically in the implementation of the SKY Scheme.

11.25. The fact that a grievance has its genesis in a particular scheme, policy, Commission Order or Government initiative does not, by that circumstance alone, alter its legal character. If the grievance

ultimately concerns the manner in which a distribution licensee has dealt with the electricity connection of a consumer, including billing, recovery, generation, disconnection, charges, maintenance or other consequential matters arising from the consumer-licensee relationship, the grievance does not cease to be a consumer grievance merely because the underlying facts involve implementation of the SKY Scheme.

11.26. In fact, the present record provides a particularly compelling illustration of this position. The President of the Petitioner Committee had himself approached the CGRF, MGVCL, in relation to grievances substantially connected with the implementation of the SKY Scheme. The CGRF thereafter passed its Order dated 13.09.2023. The Respondent MGVCL has submitted that the directions contained in the said Order have been complied with. The record further indicates that issues concerning billing and other consequences of implementation of the Scheme had been raised before the CGRF. Thus, the parties themselves have, in substance, treated the CGRF as the competent forum for redressal of grievances arising in the course of implementation of the SKY Scheme.

11.27. The subsequent conduct of the Petitioner is also relevant in this regard. Having itself invoked the jurisdiction of the CGRF in respect of grievances arising from the SKY Scheme, it cannot now contend, as a matter of principle, that the CGRF had no jurisdiction merely because the grievances were connected with that Scheme. Such a contention would lead to an internally inconsistent position: the Petitioner would, on the one hand, invoke the CGRF for redressal of SKY Scheme-related grievances and, on the other, contend that the same Forum was inherently without jurisdiction to entertain such grievances.

11.28. The Commission is also unable to accept an interpretation under which the Commission's Order dated 29.10.2018 is treated as

creating an independent source of adjudicatory jurisdiction before the Commission for every grievance arising from the implementation of the SKY Scheme. The said Order permitted implementation of the Scheme subject to certain regulatory conditions; it did not convert every subsequent individual grievance concerning a consumer's electricity connection into a proceeding within the original adjudicatory jurisdiction of the Commission. A direction issued by the Commission in exercise of its regulatory jurisdiction cannot, by itself, be construed as conferring upon the Commission an adjudicatory jurisdiction which is otherwise excluded by the statutory grievance-redressal framework.

11.29. We note that mere reference to the "non-compliance" with the Commission's Order cannot be a ground to bypass the statutory grievance mechanism which is otherwise available to the Petitioner. We further note that the alleged non-compliance of the Commission's Order dated 29.10.2018 is in substance related to individual consumer grievances, such as billing, recovery of amounts, loan instalments, generation, fixed charges, compensation, disconnection or maintenance, which need to be resolve through CGRF Framework as per the stipulation contained in the Order dated 29.10.2018 itself.

11.30. We note that the Commission's Order dated 29.10.2018 does not merely remain silent on the question of grievance redressal; it affirmatively directs that grievances arising out of the SKY Scheme, if not resolved by the nodal officer within 30 days, shall be transferred to the CGRF for speedy resolution as per the Regulations. The Petitioner's interpretation would therefore require the Commission to disregard an express condition imposed by the Commission itself at the time of permitting implementation of the Scheme. Therefore, the Commission is of the considered view that such an interpretation would neither advance the object of the Scheme nor serve the

interests of the consumers for whose benefit the Scheme was introduced. On the contrary, the mechanism prescribed in the Order dated 29.10.2018 ensures that an aggrieved consumer has an accessible and specialised forum at the level of the distribution licensee, followed by the remedy before the Electricity Ombudsman. This provides a structured, expeditious and scheme-consistent method for resolving individual grievances without converting each such grievance into a proceeding before the State Commission.

11.31. Accordingly, the Commission finds that the Petitioner's contention that the CGRF has no jurisdiction over grievances arising from the SKY Scheme is not sustainable. The Commission's Order dated 29.10.2018 itself contemplated recourse to the CGRF for grievances arising from the Scheme, and such mechanism is to be read harmoniously with, and as forming part of, the statutory consumer grievance redressal framework under Section 42 of the Electricity Act, 2003 and the Regulations framed thereunder. Consequently, where an individual grievance arising from the implementation of the SKY Scheme has already been placed before the CGRF and an Order has been passed thereon, any grievance concerning the correctness, adequacy or implementation of such Order is required to be pursued through the remedy provided under the applicable Regulations, namely, by approaching the Electricity Ombudsman, rather than by invoking the jurisdiction of the Commission.

11.32. The Commission further notes that the present Petition cannot be considered in isolation from the proceedings already instituted by the Petitioner, through its President, before the CGRF, MGVCL, in relation to grievances arising from implementation of the SKY Scheme. The CGRF passed its Order dated 13.09.2023 in the said proceedings, and MGVCL has submitted that the directions contained therein have been complied with. The Petitioner, having invoked the mechanism in

respect of the SKY Scheme, cannot now contend that the CGRF lacks jurisdiction over such grievances. Accordingly, if the Petitioner is aggrieved by the Order dated 13.09.2023 passed by the CGRF or alleges its non-implementation or inadequate implementation, the remedy lies in accordance with the statutory mechanism prescribed under Section 42 of the Electricity Act, 2003 and the GERC CGRF Regulations, 2019, including recourse to the Electricity Ombudsman. The statutory framework does not confer upon the Commission appellate or revisional jurisdiction over the CGRF in respect of individual consumer grievances. Permitting the Petitioner to reagitate substantially the same grievances before the Commission, merely by characterising them as non-compliance with the Commission's Order dated 29.10.2018, would amount to bypassing the prescribed CGRF–Ombudsman mechanism and would defeat the very purpose of the statutory grievance-redressal framework. The present Petition, therefore, cannot be maintained on that basis.

11.33. We also note the contention of the Petitioner that the present Petition is maintainable before the Commission in the capacity of the Petitioner as a "generating company". We are unable to accept the said contention as the jurisdiction of the Commission is required to be determined having regard to the true nature and substance of the dispute, the statutory framework governing the parties, the nature of the transaction, the agreements governing the Scheme and the reliefs sought in the Petition.

11.34. The record does not disclose any dispute between a "generating company" and a "distribution licensee" in the manner contemplated under Section 86(1)(f) of the Electricity Act, 2003. The Petition and the accompanying material indicate that the participating farmers, the concerned Distribution Licensee and the agency entrusted with the implementation of the SKY Scheme had entered into a Tripartite

Agreement, which governed the respective rights, obligations and arrangements relating to the participation of the farmers under the Scheme. The grievances and reliefs sought in the present Petition, *inter-alia*, relate to billing, fixed charges, disconnection, recovery or refund of amounts, loan instalments, alleged shortfall in generation, and maintenance and condition of the solar plants. Without expressing any opinion on the merits of these grievances, it is evident that the dispute arises in the context of the implementation of the SKY Scheme and the obligations and arrangements contemplated under the said Tripartite Agreement. The substance of the dispute, therefore, concerns the rights and obligations of the parties under the Scheme and the Tripartite Agreement and does not constitute a dispute between a "generating company" and a "distribution licensee" so as to attract the adjudicatory jurisdiction of the Commission under Section 86(1)(f) of the Electricity Act, 2003.

11.35. The Petitioner has also failed to establish, either from its pleadings or from the documents placed on record, as to how the present proceedings constitute a dispute between a generating company and a distribution licensee. The mere fact that solar plants have been installed under the SKY Scheme and that surplus energy may be injected into the grid cannot, by itself, convert every grievance arising from the implementation of the Scheme into a dispute between a generating company and a distribution licensee.

11.36. The said direction cannot be rendered nugatory merely by characterising the grievances as disputes involving a "generating company". Having regard to the express mechanism provided in the Commission's Order dated 29.10.2018, grievances arising out of the implementation of the SKY Scheme are required to be addressed through the mechanism so prescribed. It is also relevant that the Petitioner had invoked the jurisdiction of the CGRF in respect of

substantially the same grievances. In these circumstances, the nature of the dispute cannot be altered merely by adopting a different description so as to invoke the original jurisdiction of the Commission under Section 86(1)(f) of the Electricity Act, 2003, particularly when the Commission has already provided a specific mechanism for redressal of grievances arising from the implementation of the SKY Scheme.

11.37. In these circumstances, the invocation of the jurisdiction of the Commission on the premise that the Petitioner or its members are "generating company" is not supported by the factual or statutory foundation of the case. The jurisdiction of the Commission is required to be determined with reference to the substance and true nature of the dispute, and not merely on the basis of the nomenclature adopted by a party. The express grievance-redressal mechanism incorporated in the Commission's Order dated 29.10.2018 further indicates that grievances arising from the implementation of the SKY Scheme were to be addressed through the mechanism prescribed therein, including, where applicable, the remedy before the CGRF and thereafter before the Electricity Ombudsman.

11.38. It is also to note that the Hon'ble Supreme Court in *Maharashtra Electricity Regulatory Commission V/s. Reliance Energy Limited* has emphasised precisely this legislative intent. Once the statutory forum and the Ombudsman mechanism are available, the individual consumer grievance is required to be pursued through that mechanism. In the present case, the Commission's Order dated 29.10.2018 already provides a mechanism for redressal of grievances arising in relation to the implementation of the SKY Scheme. The said mechanism forms an integral part of the framework governing the Scheme and therefore, the grievances arising therefrom are required to be addressed in accordance with the mechanism so prescribed.

11.39. Further, in any event, Rule 11(1) of the Electricity (Rights of Consumers) Rules, 2020 expressly provides that while the prosumers will maintain consumer status and have the same rights as the general consumer, they will also have right to set up Renewable Energy (RE) generation unit. The concept of a "prosumer", thus, does not displace or dilute the underlying consumer status; it is an additional attribute superimposed upon and not a substitute for consumer status. The Petitioner's members, being agricultural consumers who have installed rooftop/ground-mounted solar PV systems under a scheme specifically designed for consumers, at best answer the description of "prosumers" under the said Rules and continue to remain consumers of MGVCL for all purposes including for the purposes of Section 42 of the Electricity Act, 2003. The attempt to don the mantle of a "generating company", for the limited purpose of overcoming the objection to maintainability, is in the considered view of the Commission, an afterthought devised to circumvent the statutory bar, and the same is accordingly rejected.

11.40. We also observed that the Commission has notified the GERC CGRF Regulations, 2019 specifically for giving effect to the provisions of Section 42(5) to 42(7) of the Electricity Act, 2003. These Regulations expressly contemplate complaints by consumers and voluntary consumer associations and provide a complete mechanism for adjudication before the Forum and thereafter representation before the Electricity Ombudsman. The Regulations further prescribe the circumstances in which a representation may be made before the Electricity Ombudsman including where the complainant is aggrieved by the Order of the Forum or where the Forum has rejected the grievance or where the Distribution Licensee has not implemented the Forum's Order. Thus, the statutory scheme is not deficient or incomplete. Regulation 3.49 of the aforesaid Regulations, 2019 also

provides the remedy in the event of non-compliance of an order passed by the Ombudsman and by Regulation 3.46, which makes the Orders of the Ombudsman final and binding, with no appeal to the Commission, save the right of the parties to approach the judicial forum. The provisions of the GERC's CGRF Regulations, 2019 read as a whole, leave

11.41. no manner of doubt that the Commission has consciously created a self-contained, three-tier mechanism for redressal of consumer grievances, culminating in the Electricity Ombudsman and has not retained for itself the role of a first instance forum for adjudication of individual consumer disputes. The Petitioner has not demonstrated any exceptional circumstance which would justify bypassing the statutory mechanism. The contention of the Petitioner that the CGRF cannot consider the issue of fixed charges also does not persuade us because whether fixed charges were lawfully leviable or whether the relevant tariff provision was applicable to the participating consumers or whether any amount was wrongly recovered or whether any amount is refundable and whether a particular bill requires correction are all matters which arise in the context of the electricity supply and billing of the concerned consumers. A dispute does not cease to be a consumer grievance merely because its adjudication may require examination of an ancillary statutory, contractual or regulatory issue.

11.42. The Commission also notes the submission of the Respondent that several of the grievances raised, particularly, those touching upon the lower CUF, quality of installation and maintenance obligations etc. concern the scope of work and contractual obligations of the empanelled implementing agency and adjudication on such aspects could be undertaken in a manner provided under the Order dated 29.10.2018 i.e., approaching before the CGRF.

11.43. It is a well-recognised principle that a litigant having invoked one statutory forum and failed to obtain the relief desired, cannot be permitted to reagitate the very same grievance before another forum not vested with appellate or revisional jurisdiction over the former, and for that would amount to forum shopping and would set at naught the finality that the legislature intended to attach to the CGRF-Ombudsman mechanism. In the present case, the Petitioner has already invoked the jurisdiction of the CGRF on substantially the same grievances and an order thereon has been passed on 13.09.2023. If the Petitioner remains aggrieved by the said Order or by the manner of its implementation, the remedy in law lies before the Electricity Ombudsman under Regulation 3.19 read with Regulation 3.49 of the GERC Regulations, 2019 and not by way of an independent Petition before the Commission. To hold otherwise would render the entire scheme of Section 42 of the Act and the Regulations framed thereunder, wholly redundant and as a result, the Commission is not inclined to countenance the same.

11.44. We note that the Petitioner has also placed its reliance on the Commission's earlier observations concerning circulars and regulatory oversight. We have considered the said submissions, however, such observations cannot be construed as conferring appellate or original adjudicatory jurisdiction upon the Commission over individual consumer grievances contrary to the express statutory mechanism under Section 42 of the Act. The regulatory power of the Commission to issue general directions, monitor compliance with its Regulations and Orders or take appropriate action for statutory non-compliance is conceptually distinct from the adjudication of an individual consumer's claim for refund, compensation, correction of bill or other consequential relief. This distinction has been clearly recognised by the Hon'ble Supreme Court in *MERC v. Reliance Energy Limited.* The Supreme Court recognised

that the Commission may exercise regulatory powers and issue general directions, but held that individual consumer grievances are to be dealt with by the forum constituted under Section 42(5) and thereafter by the Ombudsman. In the present case, the prayers are not framed as a general regulatory challenge seeking a prospective determination applicable to all licensees or all consumers. They are substantially directed towards individualised reliefs arising from the implementation of the SKY Scheme in respect of the participating consumers of the Trambovad Feeder. We are, therefore, of the considered view that the reliance placed by the Petitioner on the regulatory nature of the SKY Scheme cannot confer jurisdiction upon the Commission where the substantive grievance is a consumer grievance. The Commission is not vested with appellate jurisdiction over an order passed by the CGRF merely because the grievance relates to a subject which may have originated in a scheme considered by the Commission. If the Petitioner is aggrieved by the order passed by the CGRF, the remedy has to be pursued in accordance with the statutory mechanism.

11.45. We make it clear that we are not recording any finding on the correctness or otherwise of the grievances raised by the Petitioner on merits. We are also not expressing any opinion on whether the Petitioner or any individual consumer is entitled to refund, compensation, revision of bills, relief concerning CUF, loan instalments, fixed charges or any other substantive relief. We also make it clear that the present decision is confined strictly to the question of maintainability of the present Petition. Nothing contained herein shall be construed as an adjudication upon the merits of the allegations made against the Respondent MGVCL, GUVNL or any other person/entity connected with implementation of the SKY Scheme.

11.46. Based on the above, the Commission is of the considered view that the present Petition being one that raises in substance, grievances of an association of agricultural consumers against their distribution licensee touching upon billing, tariff related charges, CUF and recovery of loan instalments under the SKY Scheme, is not maintainable before the Commission in exercise of its jurisdiction under Section 86(1)(f) of the Electricity Act, 2003. The remedy, if any, available to the Petitioner lies before the Consumer Grievances Redressal Forum and, in the event of continued grievance, before the Electricity Ombudsman, in terms of Section 42 of the Act and the GERC (Consumer Grievances Redressal Forum and Ombudsman) Regulations, 2019 and not otherwise. The Petition deserves to fail and is accordingly dismissed on this ground of maintainability alone, without the Commission entering into or expressing any opinion on the merits of the rival contentions urged by the parties.

11.47. Consequently, we hold that the present Petition is not maintainable and accordingly, the same is liable to be disposed of on the issue of maintainability without entering into the merits of the allegations and prayers made in the Petition. It is, however, made clear that the Commission has not expressed and ought not to be understood to have expressed any opinion whatsoever on the merits of the grievances raised by the Petitioner.

12. With this Order, the present Petition stands disposed of.

13. Order accordingly.

Sd/-	**Sd/-**
[Hiren Shah]	**[Pankaj Joshi]**
Member	**Chairman**

Place: Gandhinagar.
Date: 11/09/2026.